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REPORTS

NOTES OF THE WEEK

Absolute Discharge—Disqualified for Five Years

We write with some diffidence about the report in *The Times* of November 19, that a High Court Judge at Assizes, dealing with a man charged with causing the death of his wife by dangerous driving, discharged the prisoner absolutely and disqualified him for five years from driving.

We know of no common law power or inherent jurisdiction on which an order of disqualification for driving a vehicle can be based. So far as we are aware such an order must be made by virtue of s. 6 (1) of the Road Traffic Act, 1930, "Any court before which a person is convicted of any offence specified in sch. 4 to the Road Traffic Act, 1956, may in any case except where otherwise expressly provided by this part of this Act and shall where so required by this part of this Act order him to be disqualified for holding or obtaining a licence for such period as the court thinks fit."

But s. 12 (2) of the Criminal Justice Act, 1948, provides as follows: "Without prejudice to the foregoing provisions of this section the conviction of an offender who is placed on probation *or discharged absolutely* or conditionally as aforesaid shall *in any event* be disregarded for the purposes of any enactment which imposes any disqualification or disability upon convicted persons *or authorizes or requires the imposition of any such disqualification or disability*." The report to which we have referred states that the offender in question was discharged absolutely and we are not aware, therefore, of any authority for his being disqualified for driving.

In the particular case the offender was crippled, at least temporarily, by the accident in which his wife was killed and it may be that he would not be able, nor wish, to drive again. But we feel that the question which would arise if he did wish to drive and did so in spite of the "disqualification" is a difficult one. Could he properly be charged with driving whilst disqualified? On any such charge the prosecution's first task would be to prove that he was in fact disqualified and this must surely mean lawfully disqualified. It would seem that when the prosecution sought to prove this "disqualification" they would have to give in evidence that the defendant had been absolutely discharged for the former offence. The court before which such evidence was given would have to ask themselves whether they could possibly find that this man was disqualified within the meaning of s. 7 (4) of the Road Traffic Act, 1930, when the conviction upon which the purported disqualification was based was dealt with by an absolute discharge. The matter is an important one in our view because of the penalty which conviction for driving while disqualified involves, and it is for this reason that we have dealt with the matter at some length.

White Gloves

The *Shields Gazette* of November 4, contained a photograph showing a pleasant incident that took place in the magistrates' court. Mr. T. D. Andrews, the clerk to the justices is shown presenting a pair of white gloves to Mr. T. Hodgson, chairman of the bench, there being no business for the magistrate that day.

Such incidents are not common and we do not know whether it is the general practice in magistrates' courts to observe an old custom that began in courts of Assize, where the sheriff presented white gloves to the Judge on the occasion of a maiden Assize. In ancient times, it is said, Judges were not allowed to wear gloves on the bench; so to give a Judge a pair of gloves symbolized that he need not take his seat. It is also said that bishops were sometimes given gloves on accession to their see, and the clergy wore gloves to indicate that their hands were clean and not open to bribes—which might equally apply to Judges and magistrates today.

Whether the cost of the gloves is considered to be an expense incurred by a clerk in the course of his duties and therefore chargeable to public funds or is regarded by the clerk as a personal gift, we do not know.

The Road Vehicles Lighting Regulations, 1959

These regulations came into force on November 24, 1959, and replace, with minor amendments, the corresponding regulations of 1954 and amending regulations of 1954, 1955 and 1958. The explanatory note states that the new regulations consolidate the repealed ones with minor amendments and the only changes to which attention is called are:

1. By virtue of regs. 4 (*a*) and 8 (1) (*a*) exemptions are made in the case of vehicles propelling snow ploughs and of aerodrome fire tenders from the normal provisions regulating the maximum height from the ground of front lamps, and

2. Regulations 29 (2) (*c*) and 3 (*c*) make new provision about the maximum height of rear lamps and reflectors in the case of certain vehicles of the home forces and of visiting forces of Canada and the United States of America.

The purpose of this note is not to deal with the general provisions of these regulations but to call attention to them and to their coming into force.

The Danger of Over-powered Scooters

The Pedestrians' Association, though concerned mainly with the pedestrian's point of view in its consideration of road safety problems, does not neglect other aspects of the matter. In the Autumn, 1959, issue of *The Pedestrian*, reference is made to the fact that on August 25, *The Times* motoring correspondent drew attention to the dangers created by the manufacture and sale of over-powered scooters. It is said that this type of machine, originating in Italy, has been developed by manufacturers in this country so that it is capable of cruising at speeds of from 60 to 70 *m.p.h.* and it is suggested that these speeds are unsafe for such machines. It is stated that the great increase in the number of accidents in which scooters are involved is the result of this "over development." *The Pedestrian* calls attention to the minority report of the Ministry of Transport's road safety committee which recommended that no two-wheeled machine capable of travelling at over 40 *m.p.h.* should be permitted on a public highway. This, of course, is a drastic proposal, but there can be no doubt that many of the modern high-powered motor bicycles on our roads are ridden by young men who take risks which involve other road users in unnecessary dangers. Action may well have to be taken in some way, whether by age restrictions or otherwise, to reduce the likelihood of accidents being caused by such vehicles being ridden at speeds at which they cannot properly be controlled by riders with insufficient experience and no proper sense of responsibility.

Night Driving

The congestion on the roads of today is tending to make more people, with long distances to travel, drive at night in the hope of finding less traffic to contend with. The October, 1959, number of *Road Safety Notes* issued by the West Riding constabulary reproduces an article from the *Better Driving Circle* magazine in which are given facts and figures about the range of a driver's perception, with the aid of headlights, at different speeds. The information given is based upon experiments carried out in America. It is said that at 35 *m.p.h.*, with 25,000 candle-power lights, a driver can pick up an expected pedestrian in dark clothes at 400 *ft.* if there are no oncoming headlights; an unexpected pedestrian (the more usual species) is detectable at only 200 *ft.* Headlights three times as powerful would lengthen this distance to only 285 *ft.* These distances are small enough, but there follows the somewhat startling statement that as speed increases perception range decreases by about 20 *ft.* for every 10 *m.p.h.* of extra speed.

Reference is made to other conditions —glare, dipped headlights, bends, hills and so on—which all add to the driver's difficulties in seeing at night and tables are given which compare, on the basis of the figures referred to above, the perception range with the overall stopping distance required by different vehicles at various speeds. The conclusion is that under perfect conditions at night any speed in excess of 50 *m.p.h.*, and under adverse conditions 40 *m.p.h.*, may be too great to allow a driver to stop in time.

We cannot, of course, vouch for the correctness of these figures, but they do emphasize the need for a driver at night to recognize the inherent difficulties of night driving and to regulate his speed accordingly. The article we have referred to advises (i) always drive well within the limits of your lights and perception range, and (ii) see that your lights are adjusted correctly and used so as to avoid dazzling other drivers.

Magistrates who have to try driving charges arising from events which occurred at night need to have in mind the extra care which night driving calls for and to consider the evidence accordingly.

A Guide to the Motorway

Our motoring readers will be interested to know that the Royal Automobile Club has published a very useful booklet entitled *Know Your Motorway*. With the permission of the Stationery Office there are produced the rules for driving on the motorway. Details are also given of what you should do in the event of a breakdown, and there is included a list of R.A.C. appointed garages within six miles of the motorway. Creature comforts are not overlooked as there is also a list of hotels —"where to stay and where to eat in the vicinity of the motorway."

Another useful feature is a selection of the traffic signs used on, and at the approaches to, the motorway. Last, but not least, there is on the back cover a map (16 miles to 1½ *ins.*) showing the present extent of the motorway and giving the adjacent roads in the vicinity. There can be no doubt, we think, that this booklet will be very welcome to motorists.

The R.A.C. have also arranged to cover every mile of the motorway with patrols who will be controlled by radio from a central operations station. Their vehicles will carry very comprehensive spare parts and accessories and will have two new towing devices to enable the patrols to deal speedily and efficiently with any type of tow. Every member of the crews of these vehicles will be an experienced mechanic and the service will operate seven days a week, 24 hours a day.

Drivers With Impaired Vision

The steady increase in road casualties inevitably makes many people wonder what further action can be taken to halt the increase. In *The Guardian* of November 13, attention is called in a leading article to the suggestion made recently by the Association of Optical Practitioners that any driver who, in passing a driving test, has to wear glasses in order to be able to read a number plate at 25 *yds.*, should have his licence endorsed to be valid only when he was wearing glasses. It appears from a report in the same paper that cases have been known of learners equipping themselves with spectacles specifically for the purpose of passing the test and never wearing them thereafter. It is further stated that in

some countries a driver passing a test when wearing glasses would have his licence endorsed in the way suggested above.

It is beyond question that good all-round vision is essential to enable anyone safely to drive a car in the conditions which are to be expected on our roads today. The leading article to which we have referred includes the suggestion that all first applications for a driving licence should be accompanied by a medical certificate of general fitness to drive, including fitness of vision, and that a further certificate should be required when, three years later, a licence has to be renewed. Furthermore, it is urged, over the age of 65 a certificate should be required annually.

The object of these suggestions is admirable but it does seem that it would not be easy to establish, and to ensure adherence to, any particular standard by which fitness to drive a car should be judged. Before legislation to put any such idea into practice could be contemplated it would surely be necessary to be satisfied that drivers everywhere would get the same treatment and that the grant of a licence would not depend upon whether a particular doctor took a strict or a lenient view of the state of health necessary to make a man fit to drive. So far as eyesight is concerned it should not be difficult to lay down a standard for tests and we can see no reason why a driver who needs glasses should not be compelled to wear them whilst driving.

Approved Schools

Events at the Carlton approved school and the inquiry into them have been the subject of much discussion, and there is some danger of a misconception among the general public about approved schools generally and as to their nature and methods. Schools vary, and they deal with different types of boys and girls, and it is not surprising if sometimes a particular school passes through a period of difficulty and discouragement such as may occur in a school that is not an approved school.

The Guardian published on November 16 and 17, two well informed articles on the schools, from which readers can gain a balanced view of what is going on and what the schools are trying to do with material that is often difficult and unresponsive. If results appear less than some people expect, let it be remembered that many of the boys are not sent by the courts to an approved school until they have been committing offences for from three to five years, and that about 80 *per cent.* of the offences are stealing. The success rate, judging by what happens during three years after leaving a school, is now about 58 *per cent.* and is showing a steady but slight tendency to decline: but as one headmaster put it, years ago they had to deal with tough boys and could handle them easily, while today the boys are so apathetic, frustrated and closed in, that it is difficult to get any response from them.

That is the darker side of the picture, but it does not mean that the schools are a failure. They have many outstanding successes, and the Home Office, the local authorities, the managers and the staffs are constantly trying to introduce improvements.

Progress in the System

Anyone who can remember the former reformatory and industrial schools, especially some of the reformatories, knows what progress has been accomplished in the whole system. There has been a significant change in the attitude towards the pupils and their parents, an attempt to make the life in the school not too unlike that experienced by more fortunate boys and girls in boarding schools, and to create the feeling that those sent to approved schools are sent there for their good and not for punishment. The average boy, and for that matter his parents also, still tend to regard an approved school order as a sentence of three years' detention, but gradually this is breaking down as it becomes better known how the pupils are treated, how early licensing may be earned and how anxious the authorities and staff are to secure the co-operation and goodwill of parents. Moreover, not all the inmates are offenders. Some are there as in need of care or protection, victims of misfortune of some kind, and certainly not there because deserving of punishment.

One most important feature of the system, to which *The Guardian* calls attention, is the use of classifying schools. These represent the ideal of individual treatment, the school in which a boy is to receive his training being determined only after careful observation and inquiry about his capacity, health and temperament. Vocational training has been carried on in great variety, and trade unions have helped by recognizing approved school training. While it is true that most of the boys are rather below average intelligence, a few show intelligence well above average, even if through truancy they are educationally backward. For the exceptionally intelligent there is a school managed by some Cambridge dons, and one boy has since graduated and obtained a teaching appointment.

So if there is more than enough discouragement there is also much cause for the feeling that the schools are not failing in their purpose. Naturally, those who work in them often wish they had their young charges at an earlier stage, before they had travelled so far on the wrong road and after other treatments had been tried and failed. The answer is that magistrates are reluctant to resort to separating a child from his parents and to removing him from his home so long as there is any hope that something less may have the effect of checking him in the early stage of what may become a criminal career. Each point of view is perfectly reasonable.

Driving Penalties in Different Courts

A correspondent refers to our Note of the Week at 123 J.P.N. 583 (Are penalties for bad driving adequate?) and sends to us a copy of *The Derbyshire Times* for November 6. He calls attention in it to the report of one case in which a man of 28 was sent to prison for three months by a magistrates' court for driving whilst uninsured and to the report of another case in which, at Assizes, a young man of 20 was fined £25 and disqualified for three years after pleading guilty to causing the deaths of two persons by dangerous driving and to taking and driving away a van without consent.

From the facts given in the former case it is clear that the defendant was a persistent offender. He was said to have four previous convictions for no insurance offences. He was charged also, as a provisional licence holder, with failing to display L plates. On a date in October he was said to have been convicted of 10 motoring offences (including three for driving whilst uninsured) and to have been fined a total of £30 and disqualified for 12 months. The offence for which he was sent to prison for three months was committed before, but dealt with after, the date on which these 10 convictions were recorded.

The case at Assizes was that of a young man of 20 who by taking and driving away a van and driving it dangerously collided with a car, lost control

of the van and so killed two of the six persons who were passengers in the van. They were friends of his. His advocate said that he was shocked and repentant and had expressed a wish never to drive again. The learned Judge decided that the appropriate penalty in his case was a fine of £25, with three years' disqualification.

There can be no doubt that the offence in the second case is one which the law regards as much more serious than that of using a vehicle without insurance, but in our view the fact that in two particular cases the respective penalties are a fine of £25 and imprisonment for three months proves nothing. The offender in the Assizes case was only 20 and there is no suggestion, in the report, that he had any previous conviction of any kind. It is the settled policy today to try to avoid sending young people to prison unless no other method of dealing with them is considered to be appropriate, and s. 17 (2) of the Criminal Justice Act, 1948, applies to all courts, and does not differentiate between different offences. We say, therefore, that we do not think the two cases are comparable.

Where is Education Leading the Nation?

Commander D. S. E. Thompson, R.N., chairman of the Kent education committee, speaking at the annual meeting of the Kent council of social service referred to the development of secondary technical schools as a second form of selective education from which their quota of able boys and girls were going to the universities and to the professions. This year for the first time a State scholarship was won by a Kent technical school boy. He said technical education was in process of converting an out-of-date and ill-found system into an up-to-date and efficient machine for the training of young craftsmen, technicians and technologists. Referring to the progress in providing new buildings he said that £14½ million had been spent in Kent on new buildings in the past 10 years, and a further £3 million on a very large number of minor additions and improvements. Turning to the future Commander Thompson said that as a nation Great Britain is very far in advance of most of the other parts of the world in certain industrial and scientific fields. Our people can change quite quickly provided that they have had a sufficiently wide basic education and that at all levels young people are taught how to use libraries. He thought it was vital that both boys and girls when they leave school should go out into the world equipped with the ability to keep up to date. That ability was really only available through the proper use of libraries.

Home Accidents

Dr. C. A. Boucher, a senior medical officer of the Ministry of Health, speaking at the recent National Safety Congress, dealt with the causes and prevention of falls in the home by elderly people. He said that balance and the upright posture in the child was late in development but in old people they were the first functions to disappear. This occurred earlier with women than with men. It was for this reason that elderly people were prone to falls which sometimes proved fatal and almost always create anxiety, fear and loss of confidence. Statistics show that 50 *per cent.* of home accidents are falls and 62 *per cent.* of the fatalities result from falls. Dr. Boucher said that falls of old people accounted for 80 *per cent.* of the fatal home accidents. Two-thirds of the victims were women and the proportion was higher in old age. Amongst children, however, there were more falls among boys than girls but the results were not generally serious. Many of the falls by old people are on staircases but are often due to bad lighting and fatigue. They are therefore more numerous in winter than in summer. He said climate may play a part as statistics show that in old people the death rate from falls is highest in North Britain and lowest in the South of England. The rate, again, is highest in large towns and lowest in country districts. More hospital beds are becoming occupied by old people admitted as the result of falls and they are often in hospital for six to eight weeks. As a matter of prevention Dr. Boucher said that anyone who was subject to falls should be subjected to medical examination. But much could be done to make accidents less likely by the provision of additional handrails on the staircase and at the side of the bath and the water closet.

The position does not seem to have improved since the Standing Interdepartmental Committee on accidents in the home reported six years ago. It was then pointed out that most home accidents could be avoided by the exercise of a little care and forethought but it was inevitable that the bulk of the victims were those who are least able to look after themselves. The disabilities of old age account for a high proportion of the casualties. Although a certain amount can be done by planning and design to reduce the number of potential dangers in the home in the last resort it rests with the individual to take precautions which are often thought unimportant but on which the safety of himself or others may easily depend. It is to be hoped therefore, that the present campaign organized by the Royal Society for the Prevention of Accidents will have better results than seem to have been experienced in the past.

The Mental Hospital and the Local Authority

Once more we have to comment on the need for better liaison between the local authority health department, the general practitioner and the mental hospital. This time the matter arose at a meeting of the Royal Society of Health at Rotherham. Dr. F. J. S. Esher, a Sheffield district psychiatrist said the last thing that a mental patient should feel is that he is being tossed by his general practitioner and health visitor into the hospital frying pan, only to be decanted later into the local authority's dish, each organization a stranger to the other. (We quote from *The Yorkshire Post*). He said there was still too little liaison with the health departments of local authorities and with the patients' general practitioners, both of whom were to some extent to blame. He complained that until recently medical officers of health had shown no particular interest in mental health problems and some of the mental health workers who had been appointed lacked the aptitude for social work. Such people tended to make hospital staff feel that they had nothing in common and the reception that they got when taking patients to hospital made them feel rebuffed and degraded. He thought it safer to forget liaison and to try integration—but he did not explain how—so that to the patient it would not matter whether he was at home or in hospital. Dr. R. J. Donaldson put the matter from the local health department point of view, as medical officer for health for Rotherham. He said that the signs that all was not well with the country's mental health were reflected in the rising crime and suicide rates. It was news to some of the medical men and representatives of local authorities present to be told that modern mental health concepts were now being applied to the prison service and the advice of the psychiatrist was being sought by increasing numbers of social and industrial

concerns. While they should avoid the stage of the American on holiday in Europe, who wired back to his psychiatrist saying "I am happy, please explain," new and better health service was evolving. A general practitioner who also spoke at the meeting emphasized that while the hospital service might be the brain of mental health organization and the local authority the limbs, the real heart of the organization remained with the family doctor.

THE ROADS OF ENGLAND

A useful decision under this heading appears in *The Times* of October 13, and at p. 42 of our Supplement dated October 24. Oxfordshire magistrates at Chipping Norton had convicted a motorist of unlawfully causing his car to stand so as to cause unnecessary obstruction of the highway, contrary to reg. 89 of the Motor Vehicles (Construction and Use) Regulations, 1955. The defendant appealed by Case Stated to the Divisional Court, where he was represented by leading counsel, so that the case was fully argued. The facts were in a sense unusual. At the place where the offence occurred there was a carriageway with a grass verge and a footpath, and beyond this another grass verge on which there was a line of trees. This inner verge filled the space between the footpath and the abutting private premises. On the other side of the carriageway there was another grass verge with trees which extended to a hedge. The total width between the boundaries of private premises was 52 *ft.* It seems to have been common ground, or at any rate to have been accepted by the Court, that the whole of this width including the verges formed part of the highway. This may be of some value in considering other cases of parking on a grass verge, although no doubt there may be cases where it can be shown that such a verge (beyond the footpath) has not been dedicated. In the case we are considering, the defendant had placed his car between trees on the verge between the footpath and the wall of the adjacent premises. No part of the car was within a yard of the footpath and, inasmuch as the trees would have prevented vehicles if not pedestrians from passing along the grass verge, it could not be said that any person was prevented from using the highway, except indeed a person who might have wished to park at the same spot. The case was, therefore, about as strong on facts as it could have been against the prosecution, except that the car remained for some five hours. It seems from the newspaper report that the substantial argument was not whether there was obstruction of the highway, but whether the obstruction was unnecessary within the meaning of reg. 89.

There was the difference between this case and *Solomon* v. *Durbridge* (1956) 120 J.P. 231, that there the defendant had placed his car in the street while fulfilling a business engagement. In the case now reported the occasion was a social one, namely an evening meeting of a masonic lodge. It might have been more difficult to argue that the obstruction was "necessary" upon a social than upon a business occasion; moreover there are few places even in the country where a person cannot hire a car with a driver for the purpose of attending an evening function. The newspaper reports do not show whether this point was considered by the Court, which decided mainly on the ground that the defendant's conduct was unreasonable in leaving his car for so long, even though it was not standing in the way of moving vehicles or pedestrians. It necessarily followed from its being unreasonable that the obstruction was unnecessary. The Lord Chief Justice expressly kept open the question whether parking found to be reasonable could nevertheless be unnecessary, and there is therefore still something to be argued. Facts are infinitely various and it is unwise to be dogmatic. We can however imagine cases where it might be argued that the standing of a vehicle in a particular spot was unnecessary, even though it was reasonable from the driver's point of view, and even from the point of view of other users of the highway. A driver, may, for example, find himself obliged to open the bonnet; it is obviously reasonable from every point of view that he should do so if he suspects that a mechanical fault has suddenly developed. Even so, it may be unnecessary to stop at a particular place, if there is some other place to which the vehicle could proceed without danger. The trouble is that each of these adjectives can be considered from subjective as well as objective points of view, but Lord Parker's remarks in the present case certainly emphasize that "necessity" at any rate is an objective question.

A little earlier, a fresh and constructive approach to the problem of parking had been shown in two quarters, though neither of the suggestions made has yet been accepted on behalf of any public authority national or local. The first of these was in a paper read at the Torquay meeting of the Association of Municipal Corporations by the city engineer of Birmingham. Many of our readers will have seen the full text of this already, and we need not therefore say more than that the city engineer urged acceptance of the motor car with all that that implies, instead of a merely negative approach. (It is worth remembering that it was another Birmingham man who, as Minister of Health between the wars, tried to get it recognized that houses for the working classes ought to have garage accommodation either of their own or somewhere near. The general failure to see the need for this has produced some of the results which are seen today, upon nearly all local authority housing estates and many residential areas developed privately, where miles and miles of small houses for artizans or the lower middle classes are provided with good roads which are cluttered permanently with the cars of residents.) In his paper at Torquay the city engineer of Birmingham recognized that in a few years time this country is bound to reach the standard of one car per household on the average. As we have pointed out more than once before, there are separate problems of parking the vehicle at its place of origin (typically the home of its owner) and parking it when it is away from home, especially when it has been used to bring its owner-driver into a business area. If the problem of parking at the home end of the journey can for a few years longer be left at its present stage, bad though this is, the problem of parking at the business end of the journey must be solved, and quickly. The city engineer of Birmingham after studying the problem in this country and abroad expressed the deliberate opinion that accommodation for cars in business areas could be provided without loss, either by public authorities or by private enterprise, at a cost which motorists could afford to pay. An essential step towards securing the success of such a project would be that free parking in the streets should stop. It is a technical question for engineers and accountants which mode or modes of providing such accommodation would be best in any town, but it seems plain that in most towns the best course would be to go underground and into the air, rather than to use valuable ground space. With modern constructional methods there is no difficulty about erecting

a building of as many storeys as are needed, or about packing vehicles into it by ramps or lifts. Nor need such a building be any uglier than many of those which are now being erected everywhere for use as schools and offices. Local authorities and capitalists alike have been deterred hitherto largely by uncertainty about the willingness of motorists to pay. A determination by the Government and by the police authorities to enforce the present law about obstruction is therefore essential, if proper parking facilities are to be provided. We think the city engineer of Birmingham was right in urging his audience to think along the lines of accepting and providing for the motor car, instead of the line of restriction which is as far as nearly all authorities in this country have so far gone. The idea of an immense increase of off-street parking has certainly been urged by the organizations of motorists for many years, although they have sometimes spoilt their case by suggesting that this accommodation ought to be provided at the expense of the rate-payers or tax-payers.

We differ from them on this point and we differ also, and with emphasis, from the inference so often drawn that until such time as somebody has provided parking accommodation the motorist should be allowed a preference over all other users of the highway. Here also we differ from the city engineer of Birmingham, if he intended to suggest that restrictive measures should be given up during the transition period. The late chairman of London Transport more than once expressed the view that it would soon be necessary to consider restricting the number and classes of road vehicles to be allowed to enter central London. We think that the Government and Parliament will be obliged to devise some such restriction, not only for London but for many other towns including Birmingham.* If they fail to do so, essential movement will become impossible, or at least so unreliable as to produce even more serious effects upon the country's economic life. The country cannot afford to allow the owner-driver from the suburbs to come to business in his own car, and leave it in the central area till he goes home. And this, neatly illustrated by the episode recounted in our article at p. 459, *ante*, is only one instance of mischiefs now occurring. It is essential that during the transition period, while proper off the street accommodation is being thought out and provided, the existing law shall be enforced, and it may be essential that it should be strengthened.

The other new suggestion mentioned above, which seemed to us constructive, came from an opposition member of the London county council. So far as we have seen in the press, the county council have not yet reached a decision upon it, and if they accepted it in principle there would have to be negotiations with metropolitan borough councils and with the Minister of Transport. The essence of the suggestion was that the county council should enter the field of parking, either in substitution for the borough councils or by exercising a concurrent power, similar to those now exercised in regard to housing and to open spaces. We are in principle against enlarging the powers of the London county council in any field which can be covered by the borough councils, although the objection is less strong to a concurrent power than it would be to depriving the borough councils of a power now available to them, or withholding a new power which they could conveniently exercise. Our general position here is that powers should be exercised, where possible, by bodies whose members are in touch with their constituents; the county council is too remote, and must therefore work too much through officials. Much harm has been done in our opinion to the cause of sound local government, by the conferring of needlessly wide powers on the London county council amongst others, since 1888.

The duty to provide parking places is, however, one which has been conspicuously neglected by the borough councils. We speak of it as a "duty" although it is not imposed by statute, because for a generation it has been obvious that the need would become acute. We concede that the weakness of successive governments and (connected therewith) failure of the metropolitan police to enforce the law has encouraged borough councils to drift, in the belief that money spent on parking places or many storied garage buildings would not be recouped, and perhaps in the expectation also that sooner or later the tax-payer would step in and bear the burden. From one cause and another the position now is that some authority must act, and it may be in the general interest that this should be the county council.

At the latest inquiry in London about installing parking meters in the streets a representative of the city council of Westminster stated that their engineer had been through the city with a small toothed comb and found less than 2,000 places where a meter could be set up. It is evident that public authorities and especially the metropolitan police still pin their faith to parking meters, despite the evidence of the senses that metered spaces are left vacant whilst neighbouring streets are crowded on both sides and sometimes in three lines of standing vehicles. So also parking places off streets near the business centre of London's west end can, during the business hours of the day, be seen to be only half used, whilst cars are parked in neighbouring streets often for the whole day, without regard to yellow bands and "no parking" notices. Evidence accumulates that for London at any rate the authorities concerned will be driven one day to some system of permits for bringing cars into the central area. We do not pretend to like this. At best it would involve an extension of official control, with heartburnings and wire pulling such as sprang up in the days of petrol rationing, when correspondents of the newspapers said openly that they had found the use of political pressure to be the only way of getting the petrol they wanted—in other words, of getting the better of their fellow citizens. We do not therefore regard with any pleasure the prospect of a permit system, and our qualified support for the idea is limited to those towns where restricting the entry of owner driven cars is proved to be the only plan for keeping the streets open, particularly for public transport upon which the majority of people are dependent for their livelihood. We certainly should not go so far as the distinguished architect who early this year advocated a system of limiting the number of cars to be allowed to use the roads. We agree with the critics who attacked the proposal as contrary to what the critics called "the sixth freedom," meaning the liberty to get about, without the need for using public transport, for a greater distance than can be covered on foot.

It may fairly be considered to be in the general interest that, as was suggested at Torquay by the city engineer of Birmingham, capital should be spent in furtherance of this freedom, which increasingly is spreading to all classes, in the same way as upon providing garages for new houses of all types. It would however be much easier for the public which has to pay the bill for road improvements to face the bill with equanimity, if those who claim this freedom did not assert a right to ignore the convenience of other people, both by obstructing other people's movement and by blocking the access to other people's premises.

* This had gone to press before the Pink Zone for London was announced.

What we find unpardonable is that men and women who have to go to work by omnibus should be kept waiting indefinitely because the bus on which they travel to their place of employment has been delayed in streets reduced by parked cars to a single line of traffic. It is at least equally inexcusable that, in flagrant defiance of the statute law, the metropolitan police allow and sometimes direct drivers to park upon the footway, to the danger of pedestrians who are thus forced into the roadway.

Many of the problems arising from the growth of vehicular traffic do not fall within the purview of the police—for example, the adequacy of highways and off-street parking accommodation, the provision of street car parks, automatic traffic signals, and so on. The actual control of the movement of traffic on the highway is, however, a matter for the police and it is their inescapable duty to see that freedom is maintained for every citizen to pass freely along the highway, whether on foot or in a vehicle.

At a press conference by the late Minister of Transport and Civil Aviation, held in March in a newly opened underground parking place in the city of London, the most interesting point in what he said was a request to motorists to refrain in future from parking in main roads. Note the fact that this was merely a request; he further suggested that motorists who desired to park for eating luncheon, or as the case might be, should go into a side road. The reference to luncheon at the wayside suggests that he was thinking of country roads, and this is well enough, so long as the side road is not too narrow or too winding for safe parking. In towns, parking in a side street may, as we have said before, be as bad as parking in the main road, because it prevents the ingress and egress of vehicles to and from the main road. Moreover, the side street is often the place where parked vehicles do most harm to the occupiers of premises, by preventing access to their doors. It would have been more convincing if, instead of asking motorists to do the right thing when it does not inconvenience them, the Minister had intimated that the police would in future make a serious effort to apply the legal provisions which enable the courts to punish persons who park in main roads in the country or in the streets of towns, in such a way as to impede all other traffic. Even in Regent Street and Haymarket, private cars, some with and some without chauffeurs, are daily to be seen standing close to a bus stop, forcing passengers to dismount in the carriage-way, and would-be passengers to edge their way out to the bus between the cars. In winter this often means wading through a flooded gutter. The police could prevent this, but our informant states that, whenever he has passed through these two streets this year, they have seemed to show no interest.

Early this year accounts were published of the first sittings of a court of lay magistrates at Bow Street, newly constituted to deal with traffic offences and relieve the professional magistrates. In itself this is a good thing. It is ridiculous to waste the time of stipendiary magistrates with a succession of street offences, which can equally well be dealt with by their non-professional colleagues. The new court at Bow Street has been busy clearing the heavy arrears of motoring offences, and has thus helped to improve what had become a feature of the enforcement or non-enforcement of the law—we mean that weeks or even months frequently elapse, from the time a motorist is reported for an offence, to the time when his case is brought before the magistrates. If the lists are cleared and the offences can be dealt with reasonably quickly, this will be good so far as it goes but, in itself, will do little unless the police are more alert to detect offences and to prosecute. At present the business man in central London sees the same car obstructing access to his office or shop day after day, often standing all day within a few inches of the yellow notices forbidding parking.† Even when the motorist has been reported and a summons has been issued, he can go on parking, day by day, until the summons has been heard. Indeed there is nothing to discourage his going on after he has been convicted and fined, for the amount of the fine will be less than he would have paid in garage fees, if he had put his car in a proper place. This, so far, is a matter of the need for genuine enforcement of the law, on lines which we suggested months ago, when we put it to our readers that the one effective step would be for a flying squad of police, which need comprise only a few men, to swoop on the same street day after day in each important business area, and prosecute the habitual offender every time they found his car there.

The present penalties are so small by comparison with the cost of garaging a car that they are no deterrent, and this would remain true if the magistrates imposed the maximum penalty on every occasion. If however, a man were prosecuted five times in the same week, for illegal parking at the same place, he might begin to feel that it was worth while to have some thought for other people. This is a question of police organization, but there is another side to the steps newly taken by setting up a court of lay magistrates at Bow Street. It has been stated in the newspapers that the procedure is for the defendant to send a letter to the court pleading guilty. A police witness then reads out particulars of the offence; one of the clerks of the court reads the defendant's letter, with any mitigating circumstances alleged therein, and the magistrates adjudicate. Ordinarily a smallish fine is imposed, especially if a plausible case is made out in mitigation. This system has the merit of disposing of cases quickly: reporters have said that the average time taken to hear a case and impose a fine is a minute and a half—although we do not vouch for this. Clearly this will, in the mind of the ordinary motorist, amount to no more than a clumsy system of licensing for parking in the street. There is a close analogy with the way in which prostitutes were dealt with before the Street Offences Act, 1959; that is to say, a prosecution; the defendant pleads guilty, and a penalty is imposed far below the profit made, after which the defendant goes on doing the same thing. One improvement in handling the parking cases would be that the court should refuse to accept the plea of guilty by letter, and should require the personal attendance of every defendant. This, like the infliction of penalties for every day on which the offence occurred, would have at least some deterrent effect, because it would mean that the defendant was taken away from his ordinary occupation, and made to wait in the precincts of the court until his case came on—as he has made other people wait in the public streets.

Giving the facility to do everything by letter, on the rare occasion when a prosecution does take place, makes the whole business something of a farce. By assuming in effect the semblance of a system of licences for parking, it may make the detriment suffered by the public at large even worse than it was before.

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† *See* note * to this article. The Minister of Transport has hinted that motorists may be required to pay regard to these notices, even after the Pink Zone experiment is finished.

THE DEVIATIONISTS

The Local Authorities Conditions of Service Advisory Board is upset. Certain authorities are paying existing staffs and also advertising vacancies at salaries above the levels fixed by the national negotiating body. This practice, says the board, is unfair competition which does "a grave disservice to local government . . . it causes increased public expenditure and even extravagance without adding to total efficiency, and . . . it penalizes unfairly and in a most unprincipled manner the local authorities which properly adhere to the existing standards and which perceive the folly of indulging in an unrestrained scramble for the available officers." Establishment committees are asked to look carefully into the merits of the arguments against the practice complained of, whereupon, the board believes, they will see and acknowledge their errors and resolve never again to pay more than is provided in the national agreements.

We wonder if they will.

A preliminary word on the conformists. It should be realized that conditions even among these strict believers are far from uniform. The administrative, professional, technical and clerical grades are uniform, it is true, but what of the relative numbers of posts allocated to each grade in different authorities? There is no doubt whatever that the assessment of the worth of similar administrative or clerical work varies considerably. In an early survey startling differences were disclosed: an example at the lowest salary level was that of two larger counties, one had 34 *per cent.* of its male staff graded in the general division while the other had only 18 *per cent.* It does not at all follow therefore that uniform scales will guarantee the same pay for the same job.

There are frequent advertisements of posts carrying various grades in a number of professions, and, more occasionally, of vacancies for heads or deputy heads of departments. Consider first the professional posts. The National Joint Council has laid down gradings for solicitors, accountants, engineers and architects. They have prescribed salaries for young qualified men, for example architectural assistants who have passed parts I and II of the R.I.B.A. final or equivalent and have had at least five years' experience are to be paid £785 a year, which after seven years in the post will rise to the dizzy height of £1,070. Accountants and engineers with final examination qualifications are paid at the same rates. It is true that there are possibilities of accelerated increments and of higher pay if promotion is obtained to a post carrying duties of a more responsible character, but these are birds in the bush which may never come to hand.

These salaries have not been sufficient to produce enough men, a result which might have easily have been forseen. The Joint Advisory Board acknowledges the fact but thinks the only remedy "lies in the development of adequate training facilities so that local authorities may secure a proper share of the potential candidates of good calibre." In the light of the present employment situation this view is naive, to say the least. Accountants and architects and the rest will gravitate to the gravy no matter where they are trained. Local government will not keep them when the richer rewards of commerce and the professions beckon.

So what should a local authority do? The board's publication says that offering higher salaries will not increase the total number of available officers. This is completely wrong. If, for example, an authority short of architects decided to increase its pay offer to a competitive level it would attract architects from private practice. If all authorities similarly placed did likewise the total number of architects available to local government would grow, with consequent net advantages everywhere. The buildings the councils require would be erected and without the employment of private architects. The latter practice may from time to time have been commended for divers reasons but never, we think, on grounds of economy.

There is another point. It is very well for fortunately placed employers—fortunate in the local labour situation, in the housing situation, in climate or topography, or in other ways—to insist upon paying as little as the scales will let them. But other less favoured authorities are faced with a continual problem: they have to decide whether work should remain undone because of staff shortages, whether to get it done by the employment of private services where this is possible, or whether to offer pay attractive enough to produce the necessary staff.

There are those authorities who try to evade the issue. They cannot get staff of the required standard at the salaries offered so, mistakenly thinking that they should not raise their pay offers, they continue to pay these salaries but to accept candidates who do not have all, or sometimes even part, of the required qualifications or experience. This dilution of skilled labour is a continuing and serious danger to the authorities concerned.

Then there is the case of the senior officials, in particular the heads and deputies of departments. There is a measure of flexibility here in that salaries are prescribed within a range and not on fixed scales, but when allowance is made for varying responsibilities the ranges are not particularly wide.

The application of scales to chief officers and deputies raises one vital point. It was foreshadowed 11 years ago by Sir James Lythgoe, C.B.E., M.A., then city treasurer of Manchester. He said: "The fixing of terms and conditions of employment for chief officers . . . is a development which, unless applied on a basis which allows reasonable latitude to individual local authorities in regard to terms and conditions and scope for advancement and promotion, may easily result in a loss of efficiency and incentive amongst employees and an unduly heavy cost of administration. Maximum flexibility and discretion at local levels are, in my view, prerequisites to the smooth working of any scheme of this kind." In other words, local authorities might do well to reward individual merit by making individual assessments of senior officers' salaries. There is an added reason for this. The salaries of these heads of departments outside the purview of the Joint Negotiating Committee for Chief Officers are not so narrowly prescribed. They are slotted on whatever grade seems suitable to their employers and can be re-graded whenever it is agreed a case has been made for so doing. On the other hand, a town clerk, however deserving, who has been graded at the top of the appropriate range cannot receive any financial recognition of his exceptional services.

Summarizing, therefore, it is clear that there is in fact no real general uniformity throughout the country at present and that to attempt to enforce it in limited sections of the field is unwise. If it is necessary, widely and frequently, to bid more than the published figures, this is an indication that the

basic scales need reconsideration. It has been accepted that civil service salaries should keep pace with those in industry: the report of the committee of inquiry into the electricity industry stressed the importance of adequate pay to attract and retain men of the best quality and of adequate differentials to make the higher posts, with their added responsibilities and difficulties, attractive: the report of Sir Noel Hall's Fact Finding Committee on pay for designated officers in the hospital service has resulted in much higher standards: the arbitration award of February, 1959, relating to clerks and designated chief officers gave increases of up to 18 *per cent.* against the employers' offer of five *per cent.* Other instances could be cited.

We conclude with the comment of the *Daily Express* on Sir Noel Hall's recommendations: "The deal—improves pay and prospects for administrative staff on such a generous scale that it is an abject admission that they have been grossly underpaid . . ."

MISCELLANEOUS INFORMATION

LAW SOCIETY

Questions for the Final Examination

[We are indebted to the secretary of the Law Society for permission to reproduce below the following Questions for the Final Examination, set on Wednesday, November 4, 1959, time 2.15 *p.m.* to 5.15 *p.m.*—Ed.]

A(1)—THE PRACTICE OF MAGISTRATES' COURTS, INCLUDING INDICTABLE AND SUMMARY OFFENCES; MATRIMONIAL JURISDICTION, BASTARDY, JUVENILE COURTS, TREATMENT OF OFFENDERS, CIVIL JURISDICTION, COLLECTING OFFICERS' DUTIES, THE ISSUE OF PROCESS, EVIDENCE IN CRIMINAL CASES, AND LICENSING.

(*All questions carry the same possible marks*)
(*Questions* *1, *2 *and* *3 *are compulsory*)

*1. Jenkins is alleged to have driven his motor car in a built-up area at a speed of 50 *m.p.h.* The prosecutor has caused a statement of facts to be served with the summons in accordance with s. 1 of the Magistrates' Courts Act, 1957. Jenkins sends to the court written notice of his desire to plead guilty in his absence. On the hearing the clerk reads a statement of mitigating circumstances received from Jenkins in which the defendant states that his excessive speed was caused by his need to visit a doctor. In fact, the prosecutor believes that this explanation is untrue. What action, if any, can the prosecutor and the justices take on the hearing with a view to testing the truth of the explanation?

*2. Henry and William are each accused of taking and driving away a motor car without the consent of the owner. The offence occurred in the county borough of X, Henry drove the vehicle away and William was in the passenger seat. Henry had no driving licence and his use of the vehicle was not covered by insurance in respect of third party risks. He drove some miles from X, into the county of Y where William commenced to drive. Shortly afterwards the car was stopped by a county police officer. William had no driving licence and his use of the vehicle was not covered by insurance in respect of third party risks. It is proposed to charge both Henry and William with taking and driving away the motor car, driving without a licence and using the vehicle when uninsured. May all these charges be heard by the justices for the county borough of X?

*3. Percy has been summoned by his domestic servant who complains that he is the father of her illegitimate child. Prior to the hearing, Percy's solicitor informs the clerk to the justices that his client admits paternity and would consent to the making of a maintenance order at the rate of 30*s.* per week. The solicitor suggests that, with a view to reducing publicity, an order should be made by consent without evidence being called and in the absence of the parties. What advice should the clerk give to his justices regarding this proposal?

(*Attempt seven and no more of the remaining questions*)

4. Mrs. Roberts has obtained a maintenance order against her husband at a magistrates court. This order provides that she shall have the custody of the child of the marriage, aged two years, and shall grant her husband reasonable access to such child. Roberts claims that his wife is depriving him of this right of access. What steps may he be advised to take to enforce such right?

5. Justices whom you advise have made an attachment of earnings order in relation to Simpson, directing that his employers, A. B. & Co., shall make prescribed payments out of his earnings in respect of his wife's maintenance. Various payments have been made under this order but A. B. & Co. now inform you that Simpson has just left their service and is unemployed. What procedure should be followed regarding the attachment of earnings order and what other step may be taken by Mrs. Simpson to enforce the arrears still due under the maintenance order?

6. Robson has been convicted of incest in respect of his daughter aged 18 years and sentenced to imprisonment. The police apprehend that on his release he will return to his home where reside his wife and another daughter aged 16 years. Can any preventive action be taken by a juvenile court with a view to protecting the younger daughter from the danger of a similar offence being committed with her when her father returns?

7. James, an ex-approved school boy, appears before a juvenile court at the age of 15 years nine months, charged with assaulting a police officer. He is placed on probation. Six months later, it is proved to the court that James has failed to be of good behaviour and the justices consider that a period of borstal training would be appropriate. Can such training now be ordered and, if so, what steps should the justices take to this end?

8. McTavish, who resides in Scotland, appears before a magistrates' court in England charged with larceny. He is convicted and the justices contemplate placing him on probation. If a probation order is made, specify two respects in which the procedure will differ from that applicable to an order relating to a person resident in England.

9. In the following cases, summonses have been issued against the respective defendants but each fails to appear on the hearing. Advise the justices whether they may proceed in the defendant's absence. (*a*) A summons for arrears of rates in respect of a lock-up shop, which summons has been sent to the defendant by post to that place of business. (*b*) A summons for assault left with the defendant's landlady at his lodgings. (*c*) A summons for dangerous driving served upon the defendant personally. The maximum penalty on summary conviction for this offence is four months' imprisonment.

10. S is charged with unlawful sexual intercourse with a girl under 13 years. What practice should be adopted to avoid the identity of the girl being disclosed in the press?

11. The Golden Lion, a fully licensed house in the borough of K, was seriously damaged by bombing in 1943. The licence for the premises has been in suspense. The borough is not a licensing planning area. The owners of the premises wish to rebuild them and to resume business. What applications must they make to the licensing justices before the licence can be restored to its full force?

12. Mr. and Mrs. Mitchell have been married for 10 years. In October, 1959, the husband attended an office dinner and returned home intoxicated. In an argument that ensued Mitchell struck his wife and as a result she sustained a badly discoloured eye. Mrs. Mitchell thereupon left the matrimonial home and desires to obtain a separation or maintenance order in the magistrates' court. There is no evidence of any other act of cruelty by Mitchell. Consider the alternative forms of proceedings that may be taken by Mrs. Mitchell.

A(3)—LOCAL GOVERNMENT LAW AND PRACTICE.

(*All questions carry the same possible marks*)
(*Questions* *1, *2 *and* *3 *are compulsory*)

*1. What changes are made by the Town and Country Planning Act, 1959, in the powers of local authorities to purchase, appropriate, and sell land?

*2. The population of the non-county borough of Allington has increased considerably in recent years. What steps can the borough council take to obtain increased representation of the borough on the county council?

*3. When is a person entitled (*a*) to vote at an election for a county borough council? (*b*) to have his name entered in the register of electors for the borough?

(*Attempt seven and no more of the remaining questions*)

4. A county borough council appoint a watch committee, education committee, and streets committee. No further steps are taken. What powers have the committees?

5. John, an officer, and Henry, a member, of the Orley rural district council, are each surcharged £600 by the district auditor. What is the effect of the surcharge, and what steps can they take to escape such effect?

6. In what circumstances will the High Court grant orders of (*a*) *mandamus*, (*b*) prohibition and (*c*) *certiorari* against a local authority?

7. William owns a factory, and wishes to discharge the effluent into the sewer of the urban district council. Can he do so, and, if so, subject to what conditions?

8. In 1956, the Barchester council gave planning permission to Robert for the erection of an office building on his land. Architects' plans have been prepared and approved and the foundations have been laid. The borough council now feel that the land should be used as a private open space. How can the planning permission be revoked, and what will be Robert's position in that event?

9. A highway crosses a railway by a bridge. The highway was in existence before the construction of the railway, which was authorized by an Act incorporating the Railway Clauses Consolidation Act, 1845. What are the respective responsibilities of the railway authority and the highway authority for the bridge and the highway crossing it?

10. What is the difference between the instrument of management and the rules of management of primary school? What authority would make the instrument and rules?

11. What are the powers of local authorities as to slaughterhouses?

12. The Barchester borough council have made an order for the compulsory acquisition of land belonging to your client Proudie. He does not wish to sell, but if he is forced to do so, he wishes to obtain the best price possible. What steps can be taken to preserve his interests?

CHANGE OF ADDRESS

The office of the Metropolitan Juvenile Courts is now at 163a Seymour Place, Marylebone, London, W.1, and the telephone numbers are Paddington 1177 and 1178.

CORRESPONDENCE

The Editor,
Justice of the Peace and
Local Government Review.

DEAR SIR,

ATTACHMENT OF EARNINGS

I was interested in your "Notes of the Week" for October 24 under this head, especially as my experience so far has been quite the opposite to that of your correspondent.

I have, personally, spoken to employers to get their views about these orders and have been assured that, used as they are to making P.A.Y.E. and other deductions, they can easily provide for maintenance deductions too. Far from impairing employer/workmen relations, I have been told that the employers are glad to assist in something which keeps employees from constantly appearing before the court and from being sent to prison—they much prefer to have their men at work!

So far, not one man in respect of whom an order has been made has suggested that it would endanger his job. Indeed, three men have actually requested that such orders should be made, and no man has lost his job on account of an order being made. I ought to say, however, that to date all the employers concerned are big firms. It might be different, perhaps, with a firm having few and more intimately known employees.

The benefit to the persons entitled to maintenance and also to the taxpayer are factors to be considered, and I have several cases where, in the few weeks the attachment order has been in existence, I have collected more maintenance than in twice as many months before. In each of these cases the dependents have been in receipt of national assistance.

Yours faithfully,
JOSEPH WILLS,
Clerk to the Justices.

Magistrates' Clerk's Office,
Duke Street,
Barrow-in-Furness.

[Our correspondent is much thanked. In connexion with his letter, it may be of interest to refer to the report of the Middlesbrough justices noticed at p. 697: here, an experience in an opposite sense is recorded. We notice, however, that Mr. Wills refers to "big" firms, whereas the Middlesbrough report, in speaking of the attitude of employers, describes the "smaller" firms as occasionally resenting the obligation arising from the making of orders.—*Ed., J.P. and L.G.R.*]

A TRIBUTE TO A GAOLER

[We are obliged to the chief constable of Plymouth for sending us a copy of a letter printed below. The writer was serving a sentence of 12 months' imprisonment in Her Majesty's Prison, Exeter, and although the chief constable does not inform us upon this point, it would appear that this was by no means his first sentence of imprisonment. The chief constable tells us that after receiving the letter he made inquiries from the governor of the prison, who was quite satisfied that this was a genuine expression of opinion of the rather large number of men serving sentences in Exeter prison who are natives of Plymouth. The letter was written to the chief constable two days after the death, in October last, of Constable A. J. Uzzell of the city police. Constable Uzzell retired last June after serving in the force for 34 years, during the last four of which he acted as "gaoler" in the cell block adjoining the court of quarter sessions and the magistrates' courts, where those who were due to appear before either of these courts were detained. We understand the widow of P.C. Uzzell has no objection to the contents of the subjoined letter being made known.—*Ed., J.P. and L.G.R.*]

SIR,

There are times in our lives when a person finds it very hard to try and show their feelings on paper, I never was much good in writing letters but I hope you will be able to understand what I am trying to say.

Early this morning we were greatly shocked to hear that a very good friend of ours had passed away. As you know Sir, Arthur Uzzle [*sic.*] was always greatly respected and admired by the men from Plymouth.

Sir, on behalf of all the men in here from Plymouth we are asking you if you would be kind enough to pass on our very deepest regrets and sympathy to Mr. Uzzle's relations and to the people whom are closely connected to him.

Many of us in here will always remember Arthur as one of the finest person whom we have ever known. During our past lives we have been under his care at various times waiting for our hearing in court or awaiting trial. He was the kindest man we have ever known. He was always ready to give us any good advice, if they was anything Arthur could do for us he done it, and never let us feel out of place in any way. In fact we all had our own nick-name for him Arthur The Solicitor Jailer.

Myself alone will never forget him, I feel I just have to mention this, I shall always remember him waiting at the bottom of the dock steps as he knew how nervous I got in box. He bet me two cigarettes I would get six months, he lost and he paid up. By the way I got 12 months, he told me I was greedy. It doesn't matter how far you go if anybody ever asked any of the lads from Plymouth about Arthur there will always be the one? Arthur was good one, he spent his life doing what he could to help other people and he never tired of trying to make things as pleasant as possible for us.

We know it must come as a tragic blow for the ones he has left behind but we all in here feel the great peace in our minds that after he lived his life for others, he is now in our God's hands and we feel that he will be well rewarded by God in his own way.

I will close now hoping you will understand our great respect and feelings for a great man.

(Signed by the prisoner.)

P.S.—I am seeing the Chaplin to have a prayer on Sunday on Arthur's behalf.

The Editor,
Justice of the Peace and
Local Government Review.

DEAR SIR.

CORPORAL PUNISHMENT

At page 596, *ante*, you refer to the remarks of the Lord Chief Justice on corporal punishment when addressing the Magistrates' Association and ask for first hand experience by those who have dealt with a particular type of individual.

My experience during 25 years in the detective department of the Birmingham city police from which I retired in 1947 to take up a post in industry, prompts me to relate to you one particular prosecution which remains vividly in my memory.

On July 9, 1940 two youths, one 15 and the other 18 years of age appeared before Mr. Justice Asquith at Birmingham Assizes and pleaded guilty to an assault with intent to rob Mrs. Minnie Harriett Smith, a lady of 76 years of age who was struck on the head with an iron bar whilst serving the accused in her small tobacconist's shop.

Both youths had been previously convicted. The elder had been sent to an approved school and the younger, at the time of his arrest, was an escapee from a similar institution and asked for two other cases to be taken into consideration.

The elder youth was sent to borstal and the younger boy was sentenced to eight months' imprisonment. Both were ordered to be given 12 strokes of the birch.

The elder youth has since been convicted for crimes, but never for violence to the person. I saw him several times during the last five years of my police service and he openly admitted he would never again use personal violence in committing crime; he even quoted me the sections from Acts of Parliament dealing with crime for which corporal punishment could be awarded.

He may be one of many upon whom this form of punishment has acted as a deterrent and I do know that four others who passed through my hands and were awarded similar punishment, were never again convicted of using personal violence when carrying out their crimes.

My father, who was for some years at New Scotland Yard and eventually retired in 1929 when chief constable of Plymouth, relates a similar experience in that no accused that he arrested returned to have "his back scratched" a second time.

Yours faithfully,
T. GUY SANDERS,
Ex-detective Superintendent.

54 St. Peter's Road,
Handsworth,
Birmingham.

[Our correspondent is thanked. We would be pleased to hear from others. *Ed. J.P. and L.G.R.*]

MAGISTERIAL LAW IN PRACTICE

The Western Morning News. October 24, 1959.

MAN WHO REFUSED TO PAY RATES GOES TO GAOL FOR A MONTH

Shouting "concentration camp," W. J. Burke, of Venn Cottage, Silverton, was led away by three policemen from Tiverton magistrates' court yesterday to start a month's prison sentence.

Burke appeared on a warrant for failing to pay £3 11s. 4d. in rates to Tiverton rural council.

Last week Burke wrote to the court saying that he refused to pay rates because council workmen in heavy rain dug gutters in the road verge outside his cottage and diverted the water through his garden, contaminating drinking water in a well.

Yesterday Burke told the bench: "I am definitely refusing to pay. I am only fighting for my rights."

He was told by Sir John Amory, chairman, that he was behaving rather foolishly, and the only matter that concerned the court was his refusal to pay rates.

"I will not pay until I have got my rights, and I will not get them in this court by the look of it," replied Burke.

"You are being very silly indeed, and if you insist there is only one thing we can do," replied Sir John.

Burke would go to prison for a month, but if he reconsidered his decision and the rates were paid while he was serving his sentence, Burke would be released, said Sir John.

Magistrates enforcing the payment of rates and defaulters called upon to pay them who look to the Magistrates' Courts Act, 1952, to see whether there are any "corrections and improvements" of the century-old method of enforcement must be sadly disappointed. It is true that magistrates have the consolation of being able to state a case when called upon to issue a warrant of distress for a rate (s. 128 (1)), while defaulters can find comfort in the knowledge that part payment of the sum due will reduce their term of imprisonment in default, and that a statement of wages purporting to be signed by or on behalf of their employer shall be evidence of the facts stated therein (s. 128 (2)). Defaulters, however, are much more likely to be alarmed than comforted when they discover that s. 128 (3) absolves the court from applying the scale of imprisonment in default of payment set out in sch. 3. The Distress for Rates Act, 1849, lays down imprisonment in default of distress for a period not exceeding three calendar months, irrespective of the amount unpaid, but we think it is true to say that most courts apply the provisions of sch. 3 by analogy.

The defaulter is further protected by the provisions of ss. 10 and 11 of the Money Payments (Justices Procedure) Act, 1935, which require an inquiry into his means before imprisonment can be imposed for a non-payment of a rate. His attendance can be enforced by a summons, followed by a warrant if he fails to answer the summons or by a warrant in the first instance. This power of arrest, together with the maximum term of three months' imprisonment in default, underlines the anomalous nature of unpaid rates. They are enforceable neither as a sum adjudged to be paid by a conviction nor as a civil debt.

A contributor at 122 J.P.N. 329, in the course of an article entitled "Reforms in the Law of Summary Jurisdiction," raised the question of the abolition of summonses for unpaid rates, pointing out that the general failure to appear to answer the summons and the general acknowledgment of the debt did not make the large amount of clerical work worth while. We do not know whether his suggested remedy would be acceptable or not, but we do feel that some more unified method of enforcement within the Magistrates' Courts Act, 1952, would be beneficial.

THE WEEK IN PARLIAMENT

By J. W. Murray, Our Lobby Correspondent

At question time in the Commons, Mr. E. G. M. Fletcher (Islington, E.) and Mr. M. Lipton (Brixton) asked the Attorney-General whether, in view of the recent statement made by Mr. Leonard Hackett, J.P., chairman of the Wokingham board of magistrates, while sentencing a 15 year old boy, he would take steps to remove Mr. Hackett's name from the list of magistrates.

The Attorney-General, Sir Reginald Manningham-Buller, replied that the Lord Chancellor was satisfied that the removal of Mr. Hackett from the Commission of the Peace would not be justified. The boy in the case, who was almost 16, was charged with, and admitted, an act of buggery with a younger boy, whose father had caught him in the act and struck him. He also admitted six offences of larceny; he had been convicted on previous occasions; and he appeared to the court to be wholly unrepentant and resentful of the treatment he had received from the other boy's father. Mr. Hackett, on behalf of all the members of the bench, addressed him in severe terms in an endeavour to impress on him the gravity of the matter and in the course of his remarks expressed the view that a thrashing was the kind of treatment the accused might expect to receive from his fellow citizens if he continued to misbehave in that way. The Lord Chancellor had received written assurances from Mr. Hackett and the other justices who are members of the court that in the newspaper reports of the case that part of Mr. Hackett's address was taken out of its context, with the result that those reports were misleading in that they implied that Mr. Hackett would if he could have pronounced a sentence of corporal punishment. The Lord Chancellor accepted those assurances.

Mr. Fletcher said that nobody would wish to condone the offences committed by the boy but did the Attorney-General approve the statement which the magistrate was reported to have made: "You deserve a thrashing that will leave you unconscious for 48 hours."

The Attorney-General replied that he did not think there was any occasion for him to comment further upon that statement.

Mr. Lipton then asked the Speaker's guidance as to whether it was in order to move for the removal of a magistrate on the Motion for the Adjournment. He intimated that if it was he would give notice that he would raise the matter on the Adjournment.

Mr. Speaker said that he would consider the matter and let Mr. Lipton know.

Later, Mr. Lipton tabled a Motion quoting Mr. Hackett's remarks and calling for his removal from the list of magistrates.

Motion on Mr. Justice Stable

More than 30 M.P.s have signed a Motion, tabled by Mr. George Craddock (Bradford S.), which "deplores the direction given to a jury at Nottingham Assizes on November 25, by Mr. Justice Stable, who said: 'I will leave this court in 10 minutes, and if by that time you have not arrived at a conclusion you will be kept locked up here all night, and we will resume when I get back tomorrow morning at 11.45 *a.m.*,' believing that such pressure exercised upon any jury is calculated to undermine the faith of the nation in our courts of justice."

Law on Suicide

Mr. K. Robinson (St. Pancras, N.) asked the Secretary of State for the Home Department if he would define the points arising from his reconsideration of the law of suicide which he had referred to the Criminal Law Revision Committee; and when he expected to receive the Committee's advice on the matter.

Mr. Butler replied that he had asked the Criminal Law Revision Committee to consider, on the assumption that it should continue to be an offence for a person—whether he was acting in pursuance of a genuine suicide pact or not—to incite or assist another to kill or attempt to kill himself, what consequential amendments in the criminal law would be required if it were decided that suicide and attempted suicide should no longer be criminal offences. It was as yet too early to say when the committee would be able to submit its report.

Matrimonial Proceedings (Magistrates' Courts) Bill

In the Lords, Earl St. Aldwyn has introduced a Bill on behalf of the Lord Chancellor to "amend and consolidate certain enactments relating to matrimonial proceedings in magistrates' courts and to make in the case of other proceedings the same amendments as to the maximum weekly rate of the maintenance payments which may be ordered by a magistrates' court as are made in the case of matrimonial proceedings."

The Bill makes the relief available to a husband substantially the same as that available to a wife, widens the court's powers and duties in the interests of the children of the parties and increases the amounts of maintenance which can be ordered. The Bill largely implements the recommendations of the report of the Departmental Committee on Matrimonial Proceedings in Magistrates' Courts, under the chairmanship of Mr. Justice Arthian Davies.

The second clause specifies the orders which the court may make. These may include provision that a wife should pay maintenance for the children and in certain circumstances for the husband. The court may also order that a child should be committed to the care of a local authority or placed under the supervision of a probation officer or local authority. It increases the maximum amounts which may be ordered to be paid for the maintenance of a spouse or children and provides that each parent may be ordered to contribute to a child's maintenance up to the maximum amount.

The Bill also enables a magistrates' court, and, on appeal, the High Court to make interim orders. The power originally conferred for the High Court to terminate a magistrates' court's interim order has been widened to allow the High Court to terminate the magistrates' court's final order.

PERSONALIA

APPOINTMENTS

Mr. Neville Moon, clerk to Hertfordshire county council, has been appointed a deputy lieutenant of Hertfordshire.

Mr. Norman Cumpsty, deputy town clerk of Wembley, has been promoted town clerk in succession to Mr. Kenneth Tansley, who is to retire in March, 1960.

Mr. T. Lloyd Davies, who has been acting town clerk at Ruthin, Denbighshire, since September last, has been appointed town clerk to Ruthin borough council. Mr. Davies was clerk and chief financial officer to Bala urban district council from 1946 until last year.

Mr. George William Plater, deputy town clerk, Wood Green, Middlesex, has been promoted town clerk in succession to the late Mr. Alfred Barnett.

Mr. Henry Patten, deputy town clerk of Bradford, Yorks. since March, 1946, whose appointment as town clerk to succeed Mr. W. H. Leathem was announced in last week's issue of this journal was articled as clerk to the town clerk of Stockport and in 1935 became legal assistant to Stockport corporation. In January, 1936, he became assistant solicitor to Wakefield corporation and in 1939 was appointed deputy town clerk of Wakefield.

Mr. J. C. Wood, M.A. (Cantab.), of Bath, has been appointed assistant solicitor in the town clerk's office of the city of Chester. Mr. Wood was admitted on October 1, 1959, and is at present with the legal department of the Co-operative Permanent Building Society in London. He takes up his duties in the New Year and will succeed Mr. B. W. Botham.

RETIREMENTS AND RESIGNATIONS

Mr. W. H. Carlile, clerk to Bentley urban district council, Doncaster, Yorks., has retired after 40 years' association with the authority. Mr. Carlile will continue as Doncaster district coroner. He is being succeeded as clerk to the council by Mr. H. W. M. Alexander, who has been his deputy for a number of years. The council have appointed Mr. J. S. Marshall, a law graduate of the university of Leeds, as the new deputy.

Mr. C. H. Simmonds, clerk to Wem, Salop, urban district council for the last 29 years, is to retire in March. He will also relinquish his post as clerk to Wem rural district council, which he has held since 1947.

Mr. S. W. Davey, treasurer to Warwickshire county council, has given notice of his intention to retire next May. Mr. Davey joined the staff of Shropshire county council after his demobilisation in 1919 and went to Warwick as deputy county treasurer in 1931. Thirteen years later he became county treasurer.

OBITUARY

Mr. Douglas Harold Nield, former registrar of Birkenhead, Chester and Runcorn county courts, has died at the age of 66.

REVIEWS

Employer's Liability at Common Law. By John Munkman. London: Butterworth & Co. (Publishers) Ltd. Price 42s. 6d.

This is the fourth edition of a work which has already proved its usefulness to lawyers, and to some others concerned with the topic of the liability for accidents at work. For the benefit of readers who are not lawyers there is a short glossary of legal terms, and the learned author has taken pains to make the text clear and intelligible. Despite modern legislation providing for compensation on the basis of insurance, there is a continual stream of cases in the courts and, in the short period since the last edition of the book, the House of Lords has had occasion to restate several important matters. There has also been a certain amount of legislation, both by Parliament and in the form of statutory instruments. The author has also included a summary of the new Factories Act, which was passing through Parliament while the book was in the press. The book is, however, more than a summary of the legislative provisions or indeed of the case law. Several chapters contain important discussions of points of fundamental principle, and the learned author has views of his own about the position of negligence in the law of torts. Here he seems to think much like the late Professor Jenks, and to consider that too much emphasis has in some recent cases, and by some recent writers, been placed upon negligence as being itself a cause of action. The parts of the book where he develops this theme are particularly interesting but, in saying this, we would not be thought to have overlooked other places where there is a philosophic treatment (if one may so call it), of topics which at first sight seem to lend themselves only to a pragmatic approach. The practical information is all there, but it will be the more useful to the legal reader for the discussion of underlying principles.

In Some Authority. By Frank Milton. London: Pall Mall Press. Price 16s. 6d.

There have been so many books published on the functions of justices in recent years that it is perhaps a little surprising that another should have been thought necessary. However, Mr. Milton, a metropolitan magistrate, and a chairman of the London juvenile courts, has given us a well-written and comprehensive review of the origins and the duties of the office of magistrate. The book will be of value to all justices whose knowledge of their office in the early days is hazy: the account of the historical development of English local government and justice is lucid, and, within its limits, thorough. It is, perhaps, particularly helpful at this stage, when so many fresh judiciary functions are being pressed upon magistrates, to be reminded of the administrative work of the office which was very marked up to the close of the 18th century, but which has now virtually lapsed into oblivion.

Mr. Milton has no axe to grind, and is content to present an objective picture of magistrates and the courts in which they preside. Those looking for controversial argument will not find it here, but readers will be amply rewarded if they follow Mr. Milton through the centuries as he sets before us his well-balanced portrayal of the English Magistracy.

Lumley's Public Health Acts. Third Cumulative Supplement to 12th Edition. By K. T. Watson. London: Butterworth & Co. (Publishers) Ltd. Shaw & Sons, Ltd. Price 80s.

The purpose of this book is, as its name implies, to keep the user of *Lumley* abreast of all the new developments. Whilst the book, generally speaking, does not profess to state the law at a later date than December 31, 1958, it has been possible to introduce a certain number of statutory instruments and other material of the present year. At £4 the cost may seem a little high for a supplement, which will necessarily become out of date in course of time, but one has to bear in mind the vast field which *Lumley* covers, and the constant flow of new material. We are always chary about saying of any book that it is essential, but the epithet may properly be applied to the periodical supplements to *Lumley*, if to any law book. This is the third supplement which has appeared since the 12th edition of *Lumley* was completed, and it is cumulative. As is usual with the supplements produced by these publishers for their major works, part I contains a noter-up for each of the eight volumes in *Lumley*, and a survey of recent Acts. Particular attention may be drawn to this survey, since it is now several years since the main work was completed. Part II of the supplement continues volumes VI to VIII of the main work, by bringing together the additional instruments and circulars which have since appeared, classified in the same manner as in those volumes. We have mentioned the survey of recent Acts: the notes which it contains are formal—that is to say they do not in general discuss doubtful points of law, but they do give the appropriate references to *Halsbury's Statutes* and to *Macmillan*, and of course they mention all repeals, amendments, and transfers of functions. The last matter, transfers of functions, is also the subject of a special note at the beginning of the book—a useful feature—looking to the habit of the government of moving functions from one Ministry to another and changing the names and styles of Ministers, which can be perplexing to those not constantly dealing with one of these transferred topics. We suppose that the great majority of our local government readers use *Lumley* regularly, and they will naturally obtain this supplement. For any readers who do not find it necessary in their ordinary practice to keep a set of *Lumley* on the shelves, a reminder may be useful that where they do have occasion to consult *Lumley*, for example in one of the law libraries, they will have to make sure that they also consult the present supplement.

A Handbook for Licensing Justices. By James Whiteside, O.B.E. London: Magistrates Association. Price not stated.

Mr. James Whiteside, who is well known as one of the editors of *Stone*, has given us an excellent handbook—written at the request of the licensing committee of the Magistrates' Association—to meet the needs of licensing justices in the country at large. The licensing functions of magistrates are complex and in constant use, and we fancy that this excellently arranged and succinct review of the licensing law as it affects magistrates will receive a warm welcome. The book is completely up to date, and we have no doubt that when the promised review of the licensing law has taken effect, another edition will be as welcome as this one.

Common Sense in Law. By Sir Paul Vinogradoff. Revised by H. G. Hanbury. London: Oxford University Press. Price 7s. 6d.

This is a book of pocket size in the *Home University Library*. The learned author, of Russian origin, had been a naturalized British subject and for many years taught law at Oxford. The additions since his death have been the responsibility of Dr. Hanbury. The book is of pocket size and gives an admirable account of the origins of English law. The title is a reflexion of a common saying, "law is the perfection of common sense," which seems to be a slight perversion of a remark by Coke that law is nothing but reason. It was easier to maintain this proposition in either of its forms in Coke's day that it is in the middle 20th century and it may be that, even since Vinogradoff first produced the book in 1913, the law under the influence of Parliament has departed further from what the ordinary man would regard as common sense. Nevertheless it remains true that English law has in the main developed through the efforts of Judges, jurymen, and ordinary members of Parliament, who have taken the same sort of view as the English utilitarians. So far at any rate as the common law and the early statute law were concerned, even its wildest aberrations had their origin in common sense, although it may be that in course of centuries they lost some of their practical reason. Be this as it may, the work before us is both interesting and stimulating. We like particularly its treatment of the relation between English law and custom, with its valuable illustrations from the life of earlier centuries. These are closely reminiscent of Leslie Stephen's *Science and Ethics*. The parallel topic of judicial precedent is also dealt with, in a way which will be peculiarly instructive to those who are not lawyers. The book, as a whole, is particularly suited for the sixth forms of schools and for the general public. It can be commended not merely to law tutors as something which their students might read in their spare time, but also to librarians and schoolmasters, as something to be placed in public libraries and to be made available in schools.

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An attachment of earnings order cannot be made to enforce an order for weekly payments unless, *inter alia*, there was due and unpaid, at the time the application for attachment was made, a sum equal to not less than four weekly payments. (Maintenance Orders Act, 1958, s. 6.)

ANNUAL REPORTS, ETC.

THE HOWARD LEAGUE FOR PENAL REFORM

In its report for the year ending June 30, 1959, the Howard League includes an extract from the memorandum of evidence it submitted to the Streatfield Committee on the subject of present day sentencing and some suggestions for its improvement. The League suggested that there may be some truth in the observation made by European experts and comparative lawyers that though in this country an accused person had much the best chance of obtaining a fair trial, he had not necessarily such a good chance of getting a fair sentence. Research into sentencing methods, the memorandum stated, had already shown that there are great disparities, not only between one court and another or one group of courts and another, but also between courts in roughly comparable districts, dealing with roughly the same number of offenders, and that however lofty the ideals which inspire it, the selection of sentence does to some extent reflect the prejudices and personal idiosyncracies of the court. While it recommended that a much more thorough diagnostic examination be made of the personality and background of offenders, the disadvantage of putting a convicted person back for what may prove a very long period in order that further information could be obtained before sentence was not forgotten. It was suggested that, although compulsory pre-trial inquiries after committal by magistrates' courts would be dangerous and against legal principle, it might be possible that the accused would agree to such inquiries if it were explained that they might save time spent in custody, and that when the proposed remand and observation centres have been set up, there should be no reason why they could not include an " out-patients' " department where those on bail could be interviewed.

Disatisfaction is also expressed with the present constitution of the higher courts, and the League suggests some form of court of permanent session, resembling the Crown Courts that already exist in Manchester and Liverpool, as an alternative to quarter sessions and Assizes and that the Judges of these courts should have some training in criminology and penology. The memorandum makes the point that no one is made a general or an admiral unless he has been through staff college, and in the same way envisages that persons selected for appointments as Crown Court Judges should spend some time in the criminology departments of the universities and with the new Institute of Criminology. It is only in this way, the memorandum states, that the passing of sentence will get the study and attention it needs and deserves.

BULLINGDON RURAL DISTRICT FINANCE, 1958–59

Bullingdon is a large rural district of 91,000 acres, comprising 52 parishes and a population of 40,000. Its penny rate produced in 1958–59 £1,640 and general rate levied was 18*s.* 3*d.* of which 13*s.* 9*d.* was for Oxfordshire county council.

The financial summary presented by Mr. N. D. B. Sage, F.I.M.T.A., D.P.A., treasurer to the council, evidences financial shrewdness on the part of members and officers, together with a welcome concern for economy.

The overall increase in rate-borne expenditure over the previous years was of the order of 10 *per cent.*: the county council precept increased by more than 16 *per cent.*

Housing continues to be the most important of the council's services. Mr. Sage records an increasing interest in the council house sales scheme: the council are in fact building houses for sale at prices ranging from £1,900 to £2,350. In addition certain existing houses will be sold to applicants on the house purchase waiting list as they become vacant and other houses may be sold to sitting tenants. The price of a post-1945 council house works out at about £2,000.

Particulars of the council house rent scheme are given and evidence careful thought, particularly in the list of additions to basic rents. The minimum rents for three-bedroom houses completed before April 1, 1958 are 26*s.* 9*d.*: on or after that date the figure is 32*s.* 6*d.*

In Bullingdon the average ratepayer occupies a house of £22 rateable value and his weekly rate charge is 8*s.* 5*d.*

CITY OF LEEDS, CARE OF CHILDREN COMMITTEE

The committee reports an increased demand for accommodation in every section of its department during the year ending March 31, 1959, compared with the previous year. Four hundred and ninety-seven children were received into care as compared with 442 during 1957–58. Three hundred and forty-seven boys were admitted to the remand home as against 327, and 97 boys, compared with 64, came into the two approved schools. For varying periods, no less than 941 children became the responsibility of the committee during the year, while 883 ceased to be in care. Of the 497 children received, the department was able to place 39 *per cent.* with foster parents or with relatives as compared with 30 *per cent.* the previous year. Two hundred and eighty-seven children were admitted as a result of the infirmity of parent or guardian, the cause of 249 of which was short term illness or confinement. Sixty-six children had to be admitted because of desertion by the mother—an increase of 15 compared with the previous year—and 41 children were committed to care by the courts of which 35 were non-offenders.

The family group homes continue to be successful and, within their limits, to provide a settled and individual environment where the children are able to participate in activities common to all families and to have an " Auntie," who like " Mum " has an affection for and understanding of the individual need for the child in her care.

The report remarks upon the problem involved in maintaining boarding out at its present level which requires an average of 60 to 70 new foster homes each year. Although the need for foster homes has been widely advertised and the childrens' officer and his staff have addressed many meetings, the most successful foster home still appears to be the one where an application stems from understanding and a desire to help a child rather than from emotional appeal. Finding such homes takes up much of the time of child care officers, but only by searching for such homes can boarding out be increased. An added problem has been found to be that it is the quieter, attractive child who is more easily placed with foster parents, whilst the less attractive and more difficult child, who probably has the greater need, tends to be left behind. Gradually the residential staff are being called upon to deal with difficult children whose behaviour, stemming from maladjustment or deep disturbance, they find hard to understand.

COUNTY BOROUGH OF BOOTLE: WEIGHTS AND MEASURES DEPARTMENT

In his report, Mr. L. C. Porter, the chief inspector, notes with regret the deletion from the Bootle Bill, by the Select Committee of the House of Commons, of the 23 weights and measures clauses, on the grounds that a new general Weights and Measures Bill was being prepared and would be placed before Parliament shortly. As a result of this deletion, Mr. Porter states, Bootle remains " odd man out " among the Merseyside county boroughs, and his department is unable to protect the public as effectively as other authorities. He refers to the promised general Bill as " the stock reply of succeeding Parliamentary spokesmen for the Board of Trade for several years past " and suggests that its introduction may well be delayed by the difficulty of reconciling trade interests with the need to provide better protection for the purchasing public, made all the more necessary by reason of the many new trading methods of the last three or four years. Mr. Porter is also concerned by the fact that his council has had assurance from the Board of Trade that the proposed Bill will contain legislation on all the matters disallowed in the Bootle Bill and expresses the hope that the Board of Trade will view the matter in the light of experience gained in places like Bootle and do everything they can to end the present state of uncertainty and difficulty at an early date.

Mr. Porter reports increased difficulties over the past few years in the administration of the Shops Act, 1950, which he refers to as long out of date and growing steadily more incapable of fitting the changing pattern of retail trade, particularly with regard to Sunday trading and trading from mobile shops. The recent decisions by the superior courts indicating that a broader view is being taken of the exemptions granted by the Act and that a trader whose shop is mobile is not covered by the Act, places his officers, Mr. Porter believes, in an invidious and difficult position, and that no future legislation should submit traders to the temptation to sell prohibited goods because they are allowed to remain open for the sale of exempted goods. He suggests that since the main purpose of the Act is the protection of shop assistants, thereby affecting mainly the larger shops, there might be some human wisdom in the view that the small shopkeeper should be left free to satisfy public demand when the big shop is unable to do so.

The attention of the department was concentrated for the second year running on checking the numbers of sacks of coke and coal actually delivered, and Mr. Porter is able to report that this attention has created a definite improvement both in weight of sacks and delivery of the correct number, and that during the year no offences of short delivery were detected. At the same time he records that the plentiful and ready supply of fuel, limiting the market for fuel obtained by short delivery, may have had some effect. He refers to the wisdom of the coal byelaws which limit the sale of coke and coal to quantities in excess of 14 *lbs.* During the year a number of shilling packets of coke were found exposed for sale. These worked out as costing approximately £2 7*s.* a hundredweight.

NORTH WALES PROBATION REPORT

Annual reports of probation officers provide side lights on quite a number of questions. In the report of Mr. N. W. Hutchings, principal probation officer for the North Wales combined probation area (the counties of Anglesey, Caernarvon and Denbigh), it is stated that young and old have been affected by the continued high percentage of unemployment throughout the area and this social evil has added considerably to the work of dealing with many of those placed on probation or released on licence from approved schools, borstal institutions or prisons. This is quite a different picture from that of areas of full employment in which probation officers have by comparison little difficulty in finding jobs.

Statistics in the report reveal a continued gradual increase in the number of adults placed on probation, while the figure for 1958 in respect of juveniles is less than it was in 1955. The average percentage of successes during the 10 years 1949 to 1958 was 80·4. There was an increase of 106 in the number of home surroundings inquiries in respect of juveniles but only five more concerning adults.

Of 209 matrimonial cases dealt with 70 were direct applications to the probation officer and 70 through other social agencies. As Mr. Hutchings observes this work is of great importance and can be more exacting than probation work itself. In a widely spread rural area there is little or no opportunity of any member of the staff specializing in this particular sphere of work. Therefore, no opportunity is lost in discussing the many aspects of the various problems encountered.

It is interesting to read that when Mr. Hutchings went to North Wales 15 years ago the staff comprised 21 part-time officers. The salaries then being paid varied from £2 to £15 *per annum* and the highest paid received £25 *per annum*. These officers, says Mr. Hutchings, prepared the ground and sowed the seed.

It is surprising to learn that a boy who is remanded by a North Wales court may still have to be taken a distance of 200 miles to a remand home in Chepstow. This must involve considerable expenditure of both time and money and it is to be hoped that some better arrangement will be made.

NOTTINGHAMSHIRE FINANCES, 1958–59

County treasurer J. Whittle, B.Com., A.C.A., F.I.M.T.A., has published early his admirable summary of the county's finances.

Nottinghamshire's population has grown to 570,000 and its rateable value to £5,696,000; the rise in rateable value over 12 months was almost two and a half times as great as the population increase. Total expenditure was £13,608,000, of which just over a quarter fell upon the rates. The precept for the year was 13*s.* 4*d.*

Mr. Whittle presents an aggregate balance sheet in easily understandable form. The county fund balance at the year end was £948,000, considerably larger than estimated, due to underspendings and increased Government grants. A large part (£770,000) of this balance was represented by revenue cash, and, like many other authorities, Nottinghamshire used the money temporarily to finance capital projects.

In March, 1958, bank rate was seven *per cent.*; it had fallen to four *per cent.* in March, 1959. The average rate on the temporary debt of the county council fell correspondingly and the overall average rate of interest paid dropped from 5·1 *per cent.* to 4·3 *per cent.*

The booklet contains useful analyses of revenue and capital expenditure together with costing statements for county services and establishments.

MINISTRY OF PENSIONS AND NATIONAL INSURANCE

The report covers the year 1958 but also refers to some changes which took place in 1959. These affected the amount which retirement and widow pensioners can earn without reduction in their pension—£3 a week—and increased the pension increments for those who stay on at work without retiring at minimum pension age and continue to pay full contributions. Under this revised arrangement an increment of 1*s.* a week is earned for each 12 contributions paid after pension age, instead of 1*s.* 6*d.* for 25 contributions; and the increment for a wife on her husband's insurance while he is alive is 6*d.* a week for 12 contributions, instead of 1*s.* for 25 contributions.

At the end of 1958 there were about 779,000 war pensions in payment. Family allowances were being paid to nearly 3¼ million families containing over 8¾ million children. In 63·3 *per cent.* of the families there were two children; in 23·5 *per cent.* three children; 8·3 *per cent.* four children; three *per cent.* five children and in 1·9 *per cent.* six or more children. The percentage of families with more than two children was higher in Scotland than in England or Wales. Late entrants into insurance brought the number of retirement pensioners to over 5¼ million compared with 4¾ million at the end of the previous year. Widows' benefits and guardians' allowances numbered nearly 520,000 and pensions for industrial disablement about 158,000. During the year new claims for sickness benefit totalled nearly 7,900,000. This was 1,700,000 less than in 1957 when the country felt the full force of the "asian flu" epidemic. There were over 3¼ million unemployment benefit claims and about 890,000 claims for maternity benefit. Industrial injury benefit claims totalled 580,000. The average number of benefits of all kinds being paid each week is now about 11¼ million.

It is satisfactory to know that the majority of war disablement pensioners have been able to return to their pre-service occupation or follow one of an equivalent standard. Where the pensioned disablement prevents this, and the pensioner's assessment is less than 100 *per cent.* he may be awarded an allowance for lowered standard of occupation up to 34*s.* But the allowance and the basic pension together may not exceed the 100 *per cent.* pension rate to which the pensioner would be entitled if totally disabled.

An interesting account is given of the work of the war pensioners' welfare service which was set up 10 years ago to enable disabled ex-service men to overcome the twin problems of adjustment to disablement and to civilian life. The majority of those still available for work have been settled in jobs with the help of the welfare officers. But there are now more problems associated with the increasing age of pensioners. Last year about 49,000 pensioners—over 34,000 disabled and almost 15,000 widows and dependents—sought help. The broad aim of the welfare officers is to help with any problem affecting the well-being of the individual pensioner. Since 1956 invitations have been sent to 55,000 elderly widow pensioners to get in touch with the welfare officer for help with any problem or difficulties; of these 25 *per cent.* have asked to be visited. This is often arranged through voluntary organizations and is a new development in the team-work between the Ministry and such organizations.

Turning to the insurance scheme generally, the account of the arrangements for insured persons leaving Great Britain for countries overseas shows that at the beginning of the year reciprocal arrangements were in operation with Northern Ireland, the Isle of Man, Guernsey (family allowances only), Jersey, Australia, New Zealand, Malta, Cyprus, the Irish Republic, Denmark (industrial injuries only), France, Israel, Italy, Luxemburg, the Netherlands, Sweden and Switzerland. During the year comprehensive agreements with Belgium, Norway and Yugoslavia, and a supplementary agreement with Malta, came into force and there was a revised agreement with Australia. The arrangements with Norway and Yugoslavia enable all persons from the United Kingdom, including tourists, to receive medical assistance as under the scheme of the county concerned.

COUNTY BOROUGH OF MIDDLESBROUGH; REPORT OF THE JUSTICES

Some interesting comments on the working of the Maintenance Orders Act, 1958, which came into force on February 16, last, are made in the justices' eighth annual report, which covers the year ending on September 30, 1959. Referring to the power given to the courts by this Act to make attachment of earnings orders directing employers to deduct payment from the defendant's wages, the report states that there is no doubt that this is proving a useful and practical method of recovering payments under orders and is having the desired effect of reducing the numbers of commitments to prison against defaulters. It has been found, however, that the attitude of both employers and defendants to the new procedure varies considerably. Whilst most employers have been most co-operative and helpful, amongst smaller firms, occasionally it has been found that the small employer has appeared to resent the obligation imposed upon him by the court order, and has sought to dispense with the services of the employee concerned at the earliest opportunity. This attitude, which has the effect of nullifying an order of the court and which also savours of victimisation, in that it exposes an employee to the risk of unemployment through his inability to meet his domestic obligations, is deprecated by the justices. The report further mentions that there has been a surprisingly high proportion of defendants who have themselves invited the court to make attachment orders as a means of securing payment under their orders, whilst others have deliberately nullified the effect of the order by giving up their employment or, by their behaviour at work, courting dismissal. Out of 24 attachment orders discharged on defendants ceasing to be employed, 19 were cancelled before any payment had been received under them.

During the year under review 11,980 cases passed through the court, an increase of 172 compared to the previous year. The decrease in the number of cases dealt with under the Lunacy and Mental Deficiency Acts, reported last year, has continued and the total this year was half that for 1957. The now expected increase in the number of juveniles appearing before the court was 182 over the figure for the previous year of 889. The report expresses

great concern at the effect of the recent decision in *R.* v. *Evans* (1959) 123 J.P. 128; [1958] 3 All E.R. 673, which prohibited the court from making a probation order for one offence at the same time as an order for detention for a second offence and which has restricted the panel, when dealing with persistent offenders, by placing probation in the category of an alternative rather than a supplemental form of punishment. It has been the experience of the panel that there are many cases where a short period in a remand home—the area in question possesses no detention centre—coupled with a probation order for a second offence, would be an ideal method of dealing with an offender, particularly in cases where a juvenile commits a further offence during his probation. It is the panel's view that it is important that any breach of the original probation order by the commission of a further offence should be dealt with promptly and effectively so that its seriousness may be brought home to the defendant, and it is suggested that there is an urgent need for revision in this part of the law so that the anomalies and inconsistencies resulting from *R.* v. *Evans* may be abrogated.

PLYMOUTH WEIGHTS AND MEASURES DEPARTMENT

Mr. R. Billings, chief inspector for the city of Plymouth, like other inspectors whose reports we have read, believes in good relationships with traders rather than in prosecutions. Traders are encouraged at all times to seek advice, guidance and help before becoming involved in any matter wherein the department is interested. This has been found in many instances to avoid problems and difficulties before they occur or are created through lack of knowledge or appreciation.

Mobile shops have increased in number, and Mr. Billings thinks there must be over 500 in Plymouth, and the fact that they are not shops within the meaning of the Shops Act creates uneasiness among ordinary shopkeepers.

On the subject of fuel, solid or liquid, Mr. Billings writes:

"It has been regrettable that several serious deficiencies in deliveries of liquid fuel (paraffin) and solid fuel (coke), discovered by your inspectors, did not result in dealing with the offenders, especially since one involved a large deficiency in supplies delivered to one of our schools. Owing to these commodities being outside general weights and measures law, consideration was given to action under the Merchandise Marks Act, but legal advice indicated that successful proceedings under this statute were doubtful. These examples serve well to illustrate the pathetic state of our present weights and measures law—completely out of step with modern distribution and trade."

WEST RIDING FINANCES, 1958–59

The population of the West Riding of Yorkshire continues to increase slowly, the latest figure being 1,630,000, a density of just over one to the acre.

£38 million was spent on revenue account in providing services to the inhabitants, that is, about £23 per head. £22 million of the total was for education. Roads and bridges cost £4 million, police £3 million, and health and welfare £3¼ million.

Government grants met almost three-quarters of expenditure, rates providing 20 *per cent.* A rate of 10*s.* was precepted, this being the second successive year in which the precept was reduced. There was a surplus on revenue account of £3 million at the year end, almost wholly represented by cash in hand. A penny rate produced £53,000.

Revenue balances not immediately required during the year were placed on deposit or temporarily invested and earned £137,000 interest.

Capital expenditure of £3,800,000 was a record. Here again more was spent (£3,023,000) on the education service than on all others combined.

Net loan debt totalled £17 million at March 31, equal to £10 11*s.* per head of population. It has increased by approximately £2 million a year during the past three years.

High interest rates are benefiting superannuation funds and the ratepayers who contribute to them. In West Riding the average yield on superannuation fund investments for the year was £4 4*s.* 6*d.*, compared with £4 1*s.* 3*d.* in the previous year.

County treasurer B. Hazel, F.I.M.T.A., is to be congratulated on presenting the accounts of this vast local government undertaking to the county council so early as July 15, and in such a concise and readable form.

JOHN BULL AND MARIANNE

> "Ten minutes' flying-time from the coast of France is a strange country where the metric system is unknown, the Judges wear wigs, central heating is considered unhealthy, sardines are eaten for dessert, and Sunday opening of the theatres is legally forbidden."

In these words "a friendly French observer of the British scene" sums up some basic differences of mental attitude between the two peoples, in the course of *The Times*' recent survey of Anglo-French relations. Witty sallies, from either side, on what is referred to as "the infinite social and psychological width of the English Channel" are nothing new; indeed, *The Times*' correspondent expresses the opinion that the two nations do not understand and never have understood each other. According to this view the *entente* may have been a matter of political expediency, but has never had any foundation in what Shakespeare has called "the marriage of true minds." The strangeness of which our French critic speaks is not, of course, intended to be restricted literally to the institutions enumerated in our opening quotation. Each is a symbol of some insular prejudice, some obstinate conviction that all the western nations, except our own, are out of step. This applies with particular emphasis to the first item on the list—our antiquated system of weights and measures: "14 lbs. = 1 stone; 220 yards = 1 furlong"—these we learn in our earliest schooldays, and, strange as they may appear to the continental mind, to us they are second nature. But which of us can lay his hand on his heart and assert that he can remember in a flash that "1 square rod, pole or perch = 30¼ square yards?" In truth, our system seems to be based on the maxim "Never do anything in a simple manner if you can possibly find a more complicated way."

So extraordinary and difficult a method of mensuration may well owe its survival to the puritan tradition which lurks not far beneath the surface of every Englishman's mentality. The same applies to two further items on the list—the appalling inattention to and ignorance of all matters pertaining to food and cooking (which requires no further comment), and the activities of the Lord Chamberlain in relation to the living stage. In this last it is vain to look for any consistency. Theatrical performances (except those qualified with the blessed word "private") may not take place on a Sunday anywhere throughout the length and breadth of the land, however edifying the theme or however lofty the sentiment or the style. But the Sunday opening of cinemas is a matter of local option and licensing, and trashy film-shows may desecrate the Sabbath at the will of the local authority. Similar anomalies arise in regard to other forms of mass-entertainment and the pursuit of pleasure. Nobody in England, at any rate, expects the public house to remain closed on Sundays, or even on Christmas Day; while Good Friday, the most sacred day in the calendar, is celebrated by tens of thousands attending professional football matches. No wonder our Gallic neighbours charge us with Pharisaism and hypocrisy!

When it comes to the problem of domestic calefaction, we are reactionary in the extreme. A foreign acquaintance of our own has described the English winter as "a totally unforeseen catastrophe which recurs every year." Winter after winter brings its toll of influenza and rheumatic disorders, burst pipes, impenetrable fogs and traffic chaos; yet our architects continue to design dwellings with the waste and water-pipes running *outside* the walls, and coal-burning fireplaces; except in a few "smokeless zones" little is done

to reduce the dirt and the danger of fog. The English are said to have a genius for improvization; but in a matter of this kind genius seems to be a kind of madness.

As to our judicial system, archaism is the least of its peculiarities. It is our boast that the judiciary is independent of the executive; yet the Lord Chancellor, who shares with the Home Secretary the functions of a Minister of Justice, is a member of the political administration for the time being and, almost invariably, of the party in power. Judges of the High Court are appointed, on the Lord Chancellor's nomination, by the Crown—except the Lord Chief Justice, who is the Prime Minister's nominee. The offices of Attorney-General and Solicitor-General, which are usually stepping-stones to the Bench, are political; their holders go in and out of office with the Government of the day. Judges cannot sit as members of the Commons; but they quite frequently give expression to opinions, on one side or the other, in the debates of the House of Lords. And so on, and so forth.

It is on such constitutional questions that the differences of approach, in France and England, are most marked. One of the greatest of Frenchmen, and the most distinguished of anglophiles, was François Marie Arouet de Voltaire. Exactly 200 years ago he gave utterance to his celebrated *bon mot*, in the pages of *Candide*, at England's expense:

> "In this country it is thought well to kill an admiral from time to time, to encourage the others."

The reference is to the trial by courts-martial and execution, in 1757, of Admiral John Byng, ostensibly for his failure to relieve the garrison of Minorca, but in all probability to cover up the singular ineptitude of the Duke of Newcastle and his Ministry. It is curious to observe how deeply the habit of mistrusting experts, especially distinguished soldiers or sailors in command on the spot, and holding them in political leading-strings, is ingrained in the British character. General Burgoyne's defeat and surrender at Saratoga (1777), in the American War of Independence, was similarly due to the stupidity of Lord North's Administration, which had exasperated the Colonists to rebellion but left the British forces starved of supplies. "The British soldier," says Burgoyne, in *The Devil's Disciple*, "can stand up to anything—except the British War Office." In 1801, under the incompetent Ministry of Addington, Nelson won the Battle of Copenhagen, and broke up the Northern Continental Coalition, only by being wilfully blind to the signal which forbade him to attack. Had the outcome been less fortunate, he might have suffered the fate of Byng. During the past 50 years, as more than one set of war memoirs illustrates, the penalty for muddle and mediocrity in Whitehall has on several occasions been visited upon military commanders whose only shortcomings were loyalty to orders.

The methods and experience of our neighbours are very different. The military genius of Napoleon led inevitably to the *coup d'état* which gave him supreme political power in 1799; that same military genius maintained his political supremacy until 1814. Reputation as a great soldier gave Marshal Philippe Pétain political control of unoccupied France from 1940 to 1944; his mistaken policies cannot detract from his military fame as the defender of Verdun in 1916 and his subsequent successes as Commander-in-Chief of the French armies in the first world war. Comparisons are odious; but when the history of the Fifth Republic comes to be written, the forces that gave rise to its institution, and conferred supreme authority on the present Head of the State, may well appear to have had their basis in military power. Since the death of Cromwell, 300 years ago, it is impossible to conceive of anything of that kind happening on this side of the Channel.

A.L.P.

ADDITIONS TO COMMISSIONS

CHESTERFIELD BOROUGH

James Anderson, 52 London Street, New Whittington, Chesterfield.
Edward Reginald Birley, 171 Holymoor Road, Holymoorside, Chesterfield.
Col. John Flavell Edmunds, T.D., Westwood, Chander Hill, Chesterfield.
Edward Cyril Hancock, 354 Ashgate Road, Chesterfield.
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Mrs. Elizabeth Mary Turner, 96 High Street, New Whittington, Chesterfield.

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Mrs. Margaret Brigham, Cleadon Tower, Cleadon Village, Co. Durham.
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James Dyson Flint, 187 Mortimer Road, South Shields.
Thomas Golder, 513 John Williamson Street, South Shields.
Mrs. Mary Maddison, 102 Beach Road, South Shields.
John Opensham, 22 Ashleigh Gardens, Cleadon, Sunderland.

SHORTER NOTICES

Rates and Rateable Values

This annual return for England and Wales gives the rates levied for the financial year 1958–59 and the rateable values in force at the beginning of that year, and compares them with figures published a year earlier. This material, with estimates of the yield *per capita* and of the products of a penny general rate in 1958–9 is given for each borough, urban district and rural district. It is summarized and re-examined from several aspects and the usual division of the rateable value between industrial, freight transport and other hereditaments is also provided.

PRACTICAL POINTS

All questions for consideration should be addressed to "The Publishers of the Justice of the Peace and Local Government Review, Little London, Chichester, Sussex." The questions of yearly and half-yearly subscribers only are answerable in the Journal. The name and address of the subscriber must accompany each communication. All communications must be typewritten or written on one side of the paper only, and should be in duplicate.

1.—Children and Young Persons—*Character and antecedents—Police mentioning, after finding of guilt, cautions given to juvenile defendants on previous occasions.*

From time to time the police officer prosecuting in the juvenile court has cited cautions given to juvenile defendants, when reading the antecedent history. My magistrates are not happy about this and consider that only previous findings of guilt, if any, should be read. I cannot find any reference on this point

MENIN.

Answer.

This point is one on which a clean-cut answer is not easily given. If, under a police liaison officer scheme, a juvenile has been formally cautioned in the presence, or with the knowledge and consent, of his parent as an alternative to court proceedings, it is certainly part of his antecedent history which seems relevant when a court is considering how he should be dealt with, when subsequently he is found guilty of an offence. In *R.* v. *Van Pelz* (1943) 107 J.P. 24; [1943] 1 All E.R. 36, Viscount Caldecote, L.C.J., said: "It is the duty of the police officer, we think, to inform the court also of any matters, whether or not the subject of charges which are to be taken into consideration, which he believes are not disputed by the prisoner and ought to be known to the court." Formal cautions given as above to juveniles in respect of offences apparently not disputed by them seem to us to be within the above quotation. Subject, therefore, to the right of the juvenile or his parent to contend that there was no justification for the caution, we think that such formal cautions can properly be mentioned as part of a juvenile's antecedents, but police officers should be most careful to keep strictly within what is referred to in the passage we have quoted.

2.—Gaming—*Small Lotteries and Gaming Act*, 1956—*Lottery operated in public house—Small Lotteries and Gaming Act*, 1956 (*Amendment*) *Act*, 1959.

I wonder if the answer which you give to P.P. 1 at 123 J.P.N. 594 will be misunderstood by some readers. Is it not more accurate to say that if a condition imposed by s. 1 (2) of the 1956 Act is broken such a breach will not, in itself, make a whole lottery unlawful? If this is so, ought we not to emphasize the fact that s. 141 of the Licensing Act, 1953, will not be contravened unless a whole lottery is unlawful?

It seems to me on reading s. 1 of the 1956 Act that the first 16 words of subs. 2 and the first 41 words of subs. 3 are very important.

HORSA.

Answer.

We agree with our correspondent that the answer he refers to could have been better expressed. The lottery itself is not unlawful and the only illegality would be the infringement of a condition required by s. 1 (2) of the 1956 Act. The 1959 Act would provide a good defence to a charge under s. 141 of the Licensing Act, 1953.

3.—Housing Act, 1957, s. 23—*Expenses of demolition—Charge on property.*

Are the expenses incurred by a local authority in demolishing a property subject to a demolition order, in default of compliance with the order by the owner, (*a*) registrable in part II of the register of local land charges and/or (*b*) recoverable from a person becoming the owner of the site of the house after the demolition?

The argument against registration seems to be that s. 23 of the Housing Act, 1957, re-enacting s. 13 of the Act of 1936, contains no specific provision enabling such expenses to be registered as a charge, as does s. 10 (7) in respect of expenses incurred under that section.

On the other hand, if the expenses are recoverable from a successor in title of the owner at the time of demolition, then it can be argued that the expenses are registrable under s. 15 (1) of the Land Charges Act, 1925, as amended by the Law of Property (Amendment) Act, 1926, on the ground that the Housing Act, 1957, is a statute similar to those cited in that sub-section. Moreover, it is difficult to see why the local authority should enjoy less effective remedies for the recovery of expenses incurred under s. 23 than those available for recovery of expenses incurred under s. 10. In a case with which my council is faced, the owner is abroad and county court proceedings for the recovery of the expenses of demolition would not be effective; the mortgagees are proposing to sell the site of the house, and it seems that it is only by registration of the expenses as a local land charge that the council will be able to recover the debt.

P. BETT.

Answer.

The expense of demolition is by the terms of s. 23 recoverable from the owner of the premises at the time when the expense of demolition was incurred, and is not therefore registrable under the Land Charges Act, 1925, s. 15 (1). The difference between s. 10 and s. 23 of the Housing Act, 1957, is that under s. 10 there is a repaired house to bear the charge and under s. 23 there is a bare site.

4.—Husband and Wife—*Order for neglect to maintain in respect of children only—Appeal by dissatisfied wife.*

Upon the application of a wife for an order for maintenance for herself and two children under the Summary Jurisdiction (Separation and Maintenance) Acts, 1895 to 1949, upon the grounds of failure to maintain by her husband, the magistrates, at the hearing, although finding the complaint proved refused to make an order against the husband for maintenance of his wife, making an order in respect of the two children only.

Bearing in mind that the order is in favour of the wife (*see Kinnane* v. *Kinnane* (1953) 117 J.P. 552; [1953] 2 All E.R. 1144) can the wife later appeal to the magistrates for a variation in respect of herself or must she now appeal to the Divisional Court.

FARCAS.

Answer.

It is difficult to give a specific answer to this question without knowing exactly what the phrase "although finding the complaint proved" imports. On the face of it, it would mean that the court was satisfied that the husband had wilfully neglected to provide reasonable maintenance for the wife and the two children. If this is so, it is difficult to see, without knowing the full facts, why the wife was refused maintenance and it may be that she has grounds for appealing to the Divisional Court. On the other hand, if the magistrates were satisfied that the husband had not wilfully neglected to maintain the wife and, for that reason, made an order in respect of the children only, it would be open to the wife, if her circumstances changed, to apply to the court to have the order varied to include maintenance for herself. It is usual, even where wilful neglect to maintain the wife has not been made out, to award a nominal sum for her maintenance while making adequate provision for the children (*see Starkie* v. *Starkie* (*No.* 2) (1953) 118 J.P. 59; [1953] 2 All E.R. 1519).

5.—Licensing—*Premises bound by covenant to sell intoxicating liquor only at wedding receptions—Whether on-licence is appropriate.*

A firm of brewers in this locality de-licensed one of their public houses and sold it to a private purchaser for use as a restaurant. The brewers made the purchaser covenant not to sell or supply intoxicating liquors upon the premises, but they have now agreed that intoxicating liquor may be sold only upon occasions when wedding receptions are held at the premises. The restaurant owner's solicitors have now approached me to inquire whether they may apply for a justices' licence on these terms.

There appears to be nothing in law to prevent the justices from granting a licence for the restaurant, and attaching a condition to the effect that intoxicating liquors are to be sold or supplied only when wedding receptions are being held on the premises, but personally I feel very doubtful whether they would think it proper to grant a licence which is so drastically restricted, and which would presumably be used only upon infrequent occasions.

I should be glad of your opinion upon this point, and perhaps you would let me know if there is any authority for the grant of a licence so restricted.

NEROL.

Answer.

It is in the licensing justices' discretion to grant the on-licence that is suggested; but they are entitled to think that their discretion under s. 6 (2) of the Licensing Act, 1953, to "attach conditions as they think proper in the interests of the public" has virtually been removed from them by the very restrictive nature of the covenant.

Not only is there a likelihood that intoxicating liquor will be sold by virtue of the licence on infrequent occasions; there is a similar likelihood that wedding receptions held at the premises will rarely (if ever) take place within the permitted hours fixed for the licensing district, whereby a magistrates' court will be invited to decide that almost every occasion on which licensed business is carried on is

a "special occasion" within the meaning of s. 107 of the Licensing Act, 1953, and this may seem to stretch the already over-stretched section to breaking point.

The occasional licence provisions of s. 148 of the Licensing Act, 1953, and s. 151 of the Customs and Excise Act, 1952, are available for such occasions as wedding receptions on unlicensed premises.

6.—**Probation**—*Defendant brought before court while serving a sentence—One month still to serve—Probation order to commence on his release—Validity?*

A man is brought before quarter sessions, who is already serving a prison sentence for which there is one month yet to run. He is placed on probation for three years, the chairman directing that the period of probation shall commence on his release from prison in one month's time.

(*a*) Is such a probation order legally valid?

(*b*) In view of the Lord Chief Justice's observations in *R.* v. *Evans* (1955) 123 J.P. 128; [1958] 3 All E.R. 673, would it be open to the court to make a probation order for three years to take effect immediately, although the offender would not be effectively on probation until his discharge from prison? JAPONICA.

Answer.

(*a*) We do not think that the order is a valid one if it purports to be a probation order running for three years from the date of the man's release from prison.

(*b*) Yes, we think that such an order would be valid. The position is somewhat similar to that contemplated by Lord Parker, C.J., in *R.* v. *Evans*, *supra*, in his reference to the case of a man placed on probation while still serving in H.M. Forces. We think that the fact that there is only one month of the sentence remaining is a material consideration.

7.—**Public Health Act, 1936, ss. 15 and 278**—*Compensation for abortive notice.*

My council served notices under s. 15 of the Public Health Act, 1936, in respect of their intention to construct a public sewer through the garden of a house. A, the owner of the land concerned, instructed agents to deal with this matter and they pressed for an alternative route. After investigation a possible alternative route through land belonging to B was found, which may eventually be more expensive to the council. There is an objection from B but on balance the council feel the route through B's land should be followed, and the notice to A withdrawn.

A's agents now claim payment from the council of their professional charges, pointing out that it is unfair for any of these to fall upon A.

Section 278 provides that, subject to the provisions of the section, the local authority shall make full compensation to any person who has sustained damage by reason of the exercise by the authority of any of their powers under the Act. The notes to the section in *Lumley*, p. 2735, whilst indicating that the language of the text is perfectly general, point out that it only applies to such damage as the Act is required to excuse or justify, while further, quoting Cockburn, C.J., in *New River Company* v. *Johnson* (1860) 24 J.P. 244, it is pointed out that persons have no right of compensation unless the injury which they have sustained by the exercise of the powers is such as would, but for the provisions of the Acts, have been actionable. *Herring* v. *Metropolitan Board of Works* (1865) 34 L.J.M.C. 224, appears to express a similar point of view. The point appears to be whether the service of the notice under s. 15 or the actual work of constructing the sewer through the land is exercise of the local authority's powers under the Act.

In this particular case the sewer, instead of going through the garden of A's property, now passes it in the roadway and although under the original arrangement the council might have raised the question of enhanced value under s. 278 (4) it would not appear that this can now apply.

Lumley's notes on p. 2239 referring to *Davis* v. *Whitney U.D.C.* (1899) 63 J.P. 279, suggest that compensation might have been allowed for expenses properly incurred between the date of the notice and its withdrawal if this question had been submitted.

I should appreciate your views as to whether or not the owner could succeed in a claim against the council in respect of the costs incurred by his agents in persuading the local authority to amend the route. PEPONA.

Answer.

The service of the notice is an exercise of the statutory powers. In *Davis* v. *Whitney U.D.C.*, *supra*, the Court of Appeal evidently considered that compensation could have been claimed if the property owner had gone about it in the right way: *per* Smith, L.J., at p. 279, and Romer, L.J., at p. 280.

8.—**Sewerage**—*Sewers serving highway and buildings—Alleged excess of surface water.*

A nine *in.* public sewer runs down the middle of a county road, taking sewage from adjoining properties and also surface water from the county highway. The sewer was used for the drainage of surface water from the highway before 1929. In times of heavy rainfall flooding occurs to a depth of about two *ft.* at the lowest section of the highway. The district council's surveyor is satisfied that the existing sewer is adequate to take the sewage and surface water from the buildings which it serves, but too small to cope with the additional volume of surface water which flows on to and down the county road from agricultural land which adjoins it at a higher point outside the village. It is considered that if it were not for the highway drainage flooding would not occur.

To remedy the flooding may prove to be expensive, and I shall be glad of your opinion upon the respective liabilities of the urban district council as sewerage authority and the county council as highway authority in dealing with this problem. PELOTO.

Answer.

The county council as highway authority are not liable for the flooding as they have done nothing to add to the volume of water. It might be worth trying to discover whether something had gone wrong with the drainage of the agricultural land if it now causes flooding which did not occur before 1929, and also to consider whether any other body than the urban district council has liabilities; although the facts were different, *see A.-G.* v. *St. Ives R.D.C. and Huntingdon County Council* [1959] 3 All E.R. 371.

9.—**War Memorials (Local Authorities' Powers) Act, 1923.**

Have a parish council power under the War Memorials (Local Authorities' Powers) Act, 1923, or under any other Act:

1. To pay the cost of moving a village war memorial from one part of the village churchyard to another, because the proposed site would be more suitable and convenient;

2. To pay for the adding of the names of the 1939–45 war dead? D.S.A.

Answer.

1. We do not think the words "maintenance, repair, and protection," cover doing this, merely on grounds of suitability and convenience.

2. Yes: Local Government Act, 1948, s. 133 (2).

Classified Advertisements—Continued

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LANCASHIRE

BARROW-IN-FURNESS, NORTH LANCASHIRE AND SOUTH CUMBERLAND.—CHARLES G. LOWDEN, Chartered Surveyor & Auctioneer. Est. 1869. 18/24 Cornwallis Street, Barrow-in-Furness. Tel. Barrow 364.

LIVERPOOL & DISTRICT.—JOS. RIMMER & SON, (Charles F. Reid, Robert Hatton, Hubert F. Sharman.) 48 Castle Street, Liverpool, 2. Tel. Central 3068. Chartered Surveyors, Chartered Auctioneers and Estate Agents.

GEO. H. EDWARDS & CO., 3 and 4 Williamson Sq., Liverpool, 1. Est. 1880. Tel. Royal 2434 (2 lines).

LONDON AND SUBURBS

ANDREWS, PHILIP & CO., Chartered Surveyors, 275 Willesden Lane, N.W.2. Tel. Willesden 2236/7.

FAREBROTHER, ELLIS & CO., 29 Fleet Street, E.C.4.

WARD SAUNDERS & CO., Auctioneers, Surveyors, Valuers, Estate Agents, 298 Upper Street, London, N.1. Tel. CANonbury 2487/8/9.

G. J. HERSEY & PARTNER, Chartered Auctioneers and Surveyors. 44 College Road, Harrow, Middx. and at 368 Bank Chambers, 329 High Holborn, London, W.C.1. Tel. Harrow 7484/7441.

WINCHMORE HILL, ENFIELD, SOUTHGATE, AND NORTH LONDON SUBURBS.—KING & CO., Chartered Surveyors and Valuers, 725 Green Lanes N.21. LAB. 1137. Head Office, 71 Bishopsgate, E.C.2.

MIDDLESEX

POTTERS BAR & DISTRICT.—WHITE, SON & PILL, 58 High Street. Tel. 3888.

SURREY

ESHER.—W. J. BELL & SON, Chartered Surveyors, Auctioneers and Estate Agents, 51 High Street, Esher. Tel. 3551/2. And at 2 Grays Inn Square, W.C.1. Tel. Chancery 5957.

GUILDFORD.—CHAS. OSENTON & CO., High Street. Tel. 62927/8.

SUSSEX

H. D. S. STILES & CO. (H. D. S. Stiles, F. A. R. Bessant, Chartered Surveyors), Chartered Auctioneers and Estate Agents, 6 Pavilion Buildings, Brighton, Tel. 23244 (4 lines); 3 The Steyne, Worthing, Tel. 9192/3; and at Loddon.

WARWICKSHIRE

BIRMINGHAM.—J. ALFRED FROGGATT & SON, F.A.I., Chartered Auctioneers, Valuers & Estate Agents, Unity Buildings, 14 Temple Street, Birmingham. Tel. MIDland 6811/2.

Official Advertisements

BOROUGH OF CHESTERFIELD

1. Senior Assistant Solicitor
2. Assistant Solicitor

APPLICATIONS are invited for the above posts:

Post No. 1. A.P.T. V (£1,220 rising to £1,375 p.a.). Applicant must have sound knowledge of and experience in conveyancing, advocacy, advising committees, and local government work generally.

Post No. 2. A.P.T. IV (£1,065 rising to £1,220 p.a.). Applicant must be able to undertake conveyancing, advocacy and general legal work.

Commencing salary according to ability and experience. Housing accommodation available on service tenancy basis if required.

Applications, stating age, education, qualifications and experience, and particulars of two referees, to reach undersigned on or before December 11, 1959. Canvassing will disqualify.

RICHARD CLEGG,
Town Clerk.

Town Hall,
Chesterfield.
November 27, 1959.

NORTH RIDING OF YORKSHIRE

Magistrates' Courts Committee

APPLICATIONS are invited for a male general clerk for the Magistrates' Clerk's Office at South Bank, near Middlesbrough. Preference will be given to applicants of 20 years of age or over holding G.C.E. in English, mathematics and one other subject, but younger applicants will be considered —a knowledge of typing would be an advantage. Appointment superannuable and salary ranging from £210 to £595 per annum according to age, experience and educational qualifications, with good prospects of promotion (salary at age 22, £430 per annum).

Applications, with full particulars, to reach Sir Hubert Thornley, County Hall, Northallerton, together with the names of two referees, not later than December 17, 1959.

CITY OF PLYMOUTH

Appointment of Full-time Female Probation Officer

APPLICATIONS are invited for the appointment of a full-time female Probation Officer. Applicants must be not less than 23 years of age nor more than 40 years of age except in the case of serving probation officers. The appointment will be subject to the Probation Rules, 1949 to 1959, and the salary will be according to the scale prescribed by those rules.

The successful applicant will be required to pass a medical examination.

Applications, stating age, present position, qualifications and experience, together with copies of two recent testimonials, must reach the undersigned not later than December 15, 1959.

EDWARD FOULKES,
Secretary of the
Probation Committee.

Justices' Clerk's Office,
Greenbank,
Plymouth.

BOROUGH OF WEMBLEY

Appointment of Deputy Town Clerk

APPLICATIONS are invited for this appointment from Solicitors possessing sound local government experience. The appointment will be subject to the Conditions of Service of the Joint Negotiating Committee for Chief Officers of Local Authorities, and to determination by one month's notice from either side. Salary scale £2,135 rising by annual increments of £75 (2) and £70 (1) to £2,355 per annum. Housing accommodation cannot be provided. Applications in writing, stating age, education, experience and present and previous appointments, together with the names and addresses of three referees, should be sent to the undersigned by December 19, 1959.

The covering envelope should be endorsed "Appointment of Deputy Town Clerk." Canvassing will disqualify. Relationship to any member or senior officer of the council must be disclosed.

KENNETH TANSLEY,
Town Clerk.

Town Hall,
Wembley.
November 19, 1959.

BOROUGH OF MARGATE

Conveyancing and Common Law Clerk

APPLICATIONS are invited for the post of Conveyancing and Common Law Clerk in the seaside resort of Margate.

Salary A.P.T. II according to qualifications and experience. Housing accommodation will be provided. Removal expenses will be paid. The appointment is superannuable and subject to medical examination.

The post carries authoritative and effective duties, providing an excellent opportunity for the successful applicant to gain varied experience to further his career.

Preference will be given to applicants with experience of mortgages under the Housing (Financial Provisions) Act, 1958, and conveyancing generally. Experience of preparation of contracts, leases and licences and debt collections in the county court an advantage.

Application forms obtainable from the undersigned.

Closing date December 12, 1959.

T. F. SIDNELL,
Town Clerk.

40, Grosvenor Place,
Margate.

COUNTY BOROUGH OF ST. HELENS

Assistant Solicitor

APPLICATIONS are invited for this appointment within Grade A.P.T. IV, at a commencing salary according to qualifications and experience.

Consideration will be given to the provision of housing accommodation in an appropriate case.

Applications with details of qualifications and experience and the names of two referees should reach me not later than December 11, 1959.

Canvassing disqualifies.

T. TAYLOR,
Town Clerk.

Town Hall,
St. Helens.